

# MONTANA ADMINISTRATIVE REGISTER

2022 ISSUE NO. 12  
JUNE 24, 2022  
PAGES 944-1119



# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 12

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	) NOTICE OF PROPOSED
ARM 2.59.1738 pertaining to renewal	) AMENDMENT
fees of mortgage brokers, mortgage	)
lenders, mortgage servicers, and	) NO PUBLIC HEARING
mortgage loan originators	) CONTEMPLATED

TO: All Concerned Persons

1. On August 6, 2022, the Department of Administration proposes to amend the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 6, 2022, to advise us of the nature of the accommodation that you need. Please contact Julie James, Department of Administration, P.O. Box 200101, Helena, Montana 59620-0101; telephone (406) 444-2460; Montana Relay Service 711, facsimile (406) 444-6194; or e-mail to Julie.James2@mt.gov.

3. The department proposes to amend the following rule, new matter underlined, deleted matter interlined:

2.59.1738 RENEWAL FEES (1) Licenses issued under Title 32, chapter 9, part 1, MCA, expire December 31. Licensees shall submit their renewal applications by December 1 of each year to ensure issuance of the license to qualified renewal applicants by January 1 of the following year. The renewal fees for the license period after January 1, 2022 through December 31, 2022, are:

- (a) Mortgage Broker Entity, \$125.00;
- (b) Mortgage Broker Branch, \$62.50;
- (c) Mortgage Lender Entity, \$187.50;
- (d) Mortgage Lender Branch, \$62.50;
- (e) Mortgage Loan Originator, \$100.00;
- (f) Mortgage Servicer Entity, \$187.50;
- (g) Mortgage Servicer Branch, \$62.50.

~~(2) The renewal fees for the license period after January 1, 2023, are:~~

- ~~(a) Mortgage Broker Entity, \$375.00;~~
- ~~(b) Mortgage Broker Branch, \$187.50;~~
- ~~(c) Mortgage Lender Entity, \$562.50;~~
- ~~(d) Mortgage Lender Branch, \$187.50;~~
- ~~(e) Mortgage Loan Originator, \$300.00;~~
- ~~(f) Mortgage Servicer Entity, \$562.50;~~
- ~~(g) Mortgage Servicer Branch, \$187.50.~~

AUTH: 32-9-117, 32-9-130, 32-9-134, MCA  
IMP: 32-9-117, 32-9-130, 32-9-134, MCA

STATEMENT OF REASONABLE NECESSITY: The Division of Banking and Financial Institutions (division) is funded through assessments, licensing, and examination fees and strives to keep these fees consistent with each program's expenditures. The mortgage program is currently generating more revenue than its expenditures because there has been growth in the number of mortgage licensees which has exceeded the division's projections. Pursuant to 32-9-117, MCA, renewal fees must be commensurate with program costs.

The housing market has seen a remarkable boom since the pandemic began and remote work has allowed people to work anywhere they please. The number of mortgage loan originators has grown dramatically and increased by 21 percent from 2019 to 2020 and by 58 percent from 2020 to 2021.

In Montana, there are currently licensed:

- 286 mortgage broker entities;
- 512 mortgage broker branches;
- 273 mortgage lender entities;
- 883 mortgage lender branches;
- 201 mortgage servicer entities;
- 184 mortgage servicer branches; and
- 5,635 mortgage loan originators.

In 2023, the division proposes to restore fees to the level previously set in 2022. The division expects that not all the current licensees will renew their licenses for 2023. However, based on prior years' renewals, the division predicts approximately 80 percent of its mortgage loan originators, 95 percent of mortgage companies, and 95 percent of mortgage company branch licensees will renew their licenses for 2023. This will result in renewal revenue of \$663,000. The division can adequately fulfill its mission with this reduction in licensing fees being extended for another year into 2023. This will allow the division to reduce the fund balance it currently carries.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to the person listed in paragraph 2 above. Comments must be received no later than 5:00 p.m., July 22, 2022.

5. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in paragraph 2 above no later than 5:00 p.m., July 6, 2022.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an



association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 797 persons based on the 7,974 mortgage brokers, lenders, servicers, loan originators licensed in Montana.

7. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to the person listed in paragraph 2 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. The department has determined that under 2-4-111, MCA, the proposed amendment of the above-stated rule will not significantly and directly impact small businesses.

By: /s/ Misty Ann Giles  
Misty Ann Giles, Director  
Department of Administration

By: /s/ Don Harris  
Don Harris, Rule Reviewer  
Department of Administration

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the amendment of       ) NOTICE OF PUBLIC HEARING ON  
ARM 4.6.601 and 4.12.1031 and the       ) PROPOSED AMENDMENT AND  
repeal of 4.19.201 pertaining to hemp    ) REPEAL

TO: All Concerned Persons

1. On July 14, 2022, at 11:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts in Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Agriculture no later than 5:00 p.m. on July 19, 2022, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; TDD/Montana Relay Service (406) 444-3144; or e-mail agr@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

4.6.601 MONTANA HEMP ADVISORY COMMITTEE (1) The committee ~~shall be an~~ consists of at least five and no more than eight member committee ~~consisting of six voting members involved in the production of hemp within the prior three years, one non-voting processing industry representative, and one non-voting representative from the Montana State University System.~~

(2) A majority of the committee members must be hemp "producers" per 80-11-510(3), MCA. Producer is defined in 80-11-503(5), MCA.

(3) Appointment terms shall be made at the director's discretion and reviewed annually.

AUTH: 80-11-504, MCA

IMP: 80-11-510, MCA

REASON: Reducing the minimum number of committee members will yield cost savings while allowing for flexibilities should the total amount of checkoff dollars collected warrant a full-size committee. Currently, the hemp checkoff funds do not constitute a sum large enough to justify the costs of an eight-member committee meeting. With three fewer members, the Hemp Advisory Committee is projected to save \$200 per meeting.

4.12.1031 OTHER COMMODITIES (1) In addition to those specified commodities in 80-4-402, MCA, the following crops are commodities for all purposes:

(a) pulse crops including but not limited to peas, dried peas, chickpeas, and lentils; ~~and~~

(b) beans; ~~and~~

~~(c) hemp.~~

~~(i) Hemp is an oil crop seed commodity covered under the provisions of 80-4-402, MCA, and ARM Title 4, chapter 19, subchapter 1.~~

AUTH: 80-4-402, MCA

IMP: 80-4-402, 80-4-501, 80-4-601, 80-4-704, 80-18-103, MCA

REASON: The hemp marketplace has not matured to a point where businesses can reasonably comply with the commodity dealer law. Due to ARM 4.19.202 pertaining to hemp processing for a commodity dealer having been in effect for the past three years, no changes to costs in business are expected. Hemp may be added to the list of other regulated commodities again in the future if need be.

4. The department proposes to repeal the following rule:

4.19.201 HEMP PROCESSING LICENSE AND FEE

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-107, MCA

REASON: This rule has expired. As written, the ARM 4.19.201 applied in 2019 and 2020 only. There is no cost associated with this repeal.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-5402; fax (406) 444-5409; or e-mail [cojensen@mt.gov](mailto:cojensen@mt.gov), and must be received no later than 5:00 p.m., July 22, 2022.

6. Cort Jensen, Department of Agriculture, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Cort Jensen

Cort Jensen  
Rule Reviewer

/s/ Christy Clark

Christy Clark  
Director  
Agriculture

Certified to the Secretary of State June 14, 2022.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 12.6.2215 pertaining to the ) PROPOSED AMENDMENT  
classification of caracal cat as a )  
prohibited species )

TO: All Concerned Persons

1. On July 18, 2022, at 9:30 a.m., the Fish and Wildlife Commission (commission) will hold a telephonic public hearing via the ZOOM meeting platform to consider the proposed amendment of the above-stated rule. There will be no in-person hearing. Interested parties may access the remote conferencing in the following way:

(a) Dial by telephone: 1 213 338 8477  
Meeting ID: 810 8764 0893  
Passcode: 650304

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Fish, Wildlife and Parks (FWP), no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-9785; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.6.2215 LIST OF PROHIBITED SPECIES (1) through (3) remain the same.

(4) The following mammals are classified as prohibited species:

(a) through (f) remain the same.

(g) Caracal cat – *Caracal caracal*;

(g) through (s) remain the same but are renumbered (h) through (t).

(5) through (7) remain the same.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

REASON: Pursuant to 87-5-702, MCA, any non-native wildlife species are considered exotic wildlife and cannot be imported, possessed, or sold unless allowed by law or commission rule. The Classification Review Committee (CRC), established in 87-5-708, MCA, is responsible for analyzing classification requests

and developing recommendations for classification for the Fish and Wildlife Commission.

On January 6, 2021, the Department of Fish, Wildlife and Parks received a petition to classify caracal cats. The petition stated that the petitioner wished to own a caracal cat as a pet but did not recommend a specific classification. Caracal cats have not been classified and meet the definition of exotic wildlife. On September 2, 2021, the CRC voted to recommend the Fish and Wildlife Commission classify caracal cats as prohibited. The Fish and Wildlife Commission is proposing to classify caracal cats as prohibited as recommended by the CRC.

4. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Phil Kilbreath, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail [pkilbreath@mt.gov](mailto:pkilbreath@mt.gov), and must be received no later than July 22, 2022.

5. Jessica Snyder or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to: Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the commission has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Zach Zipfel  
Zach Zipfel  
Rule Reviewer

/s/ Lesley Robinson  
Lesley Robinson  
Chair  
Fish and Wildlife Commission

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	SUPPLEMENTAL NOTICE OF
ARM 17.74.501, 17.74.504,	)	PUBLIC HEARING ON PROPOSED
17.74.505, 17.74.506, 17.74.507,	)	AMENDMENT AND ADOPTION AND
17.74.508, 17.74.511, 17.74.512,	)	EXTENSION OF COMMENT
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17.74.516, 17.74.517, and 17.74.518	)	
pertaining to definitions,	)	(METHAMPHETAMINE CLEANUP)
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certification, and fees; and the	)	
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pertaining to sampling,	)	
recordkeeping, reports, and	)	
incorporation by reference	)	

TO: All Concerned Persons

1. On March 25, 2022, the Department of Environmental Quality published MAR Notice No. 17-417 providing notice of a public hearing on the proposed amendment and adoption of the above-stated rules at page 367 of the 2022 Montana Administrative Register, Issue Number 6.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., July 11, 2022, to advise us of the nature of the accommodation that you need. Please contact the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMETHAMPHETAMINECLEANUP@mt.gov.

3. In response to comments received on the Notice of Public Hearing on Proposed Amendment and Adoption, MAR Notice No. 17-417 (original notice), the department is proposing changes to its originally proposed METHAMPHETAMINE CLEANUP rules. Specifically, the department is proposing a new version of NEW RULE I originally published on March 15, 2022, in MAR Notice No. 17-417 at pages 386 through 387 of the 2022 Montana Administrative Register, Issue Number 6.

The department believes these are significant changes to the original notice and is reopening the public comment period with respect to the changes set forth in this supplemental notice only. Please provide comments only to this supplemental notice and not to the original notice. The department is continuing to review the comments and information submitted in response to its original notice, and the department anticipates other changes to the proposed rules at the time of adoption in response to the comments it has received to date. Timely comments previously submitted on the original notice, as well as comments received in response to this supplemental notice, will be addressed in the adoption notice for the proposed rules.

4. The department proposes to amend the proposed New Rule I with the following changes from the original notice, new matter underlined, deleted matter interlined:

NEW RULE I SAMPLING PROCEDURES (1) ~~The following~~ All sampling procedures and laboratory analysis must be followed to assess contamination and to verify the attainment of the decontamination standards for methamphetamine within inhabitable structures in order to remove an inhabitable property from the contaminated properties list, maintained by the department pursuant to 75-10-1306, MCA, or to obtain a certificate of fitness, pursuant to this subchapter, must be conducted in accordance with the NIOSH 9111 method, the Methamphetamine Indoor Decontamination Standards in 75-10-1303, MCA, and this section, with the following exceptions:

(a) methanol shall be the only solvent accepted; and

(b) samples shall not be composited.

(2) The department may approve an alternative sampling or analytical method, upon advance written request, when the department determines the proposed alternative method is equivalent to or as accurate as the methods in (1).

(3) All samples identified in the department-approved assessment, work, or clearance plan shall be collected from within the inhabitable property.

(4) The following shall be completed when sampling for methamphetamine contamination and to verify the attainment of the decontamination standards:

(a) all sample locations shall be photographed prior to sampling; and

(b) all samples shall be collected in accordance with department-approved assessment plan from areas representative of materials or surfaces where contamination is suspected, confirmed, or was known to be present;

(c)(b) all samples, field blanks, and media blanks shall be obtained, preserved, handled and maintained under recorded on the chain of custody protocol in accordance with industry standards and department-approved plans for the types of samples and analytical testing to be conducted;

(d) the individual conducting the sampling shall put on a new pair of gloves to obtain each sample;

(e) all reusable sampling equipment shall be decontaminated prior to sampling;

(f) each sample shall be placed in a sterile sample container and sealed tightly. Security seals must be used on sample containers to maintain integrity of the sample from time of sampling to sample analysis. The sample container shall be



labeled with site or project identification number, date, time, and sample location; and

~~(g) each sample shall be analyzed for methamphetamine using NIOSH Manual of Analytical Method (NMAM) 9111 or equivalent method approved by the department in advance. The reagent utilized for the collection of samples shall be methanol.~~

(5) An assessment or clearance plan shall incorporate a sampling plan that samples all areas suspected to have the highest levels of contamination within the inhabitable property including:

(a) samples from each room or area within the inhabitable property known, based on credible evidence or documentation, to have contained a CML or to have been exposed to contamination from methamphetamine smoking;

(b) at least two samples from each room or area within the inhabitable property where methamphetamine manufacturing or smoking is suspected to have occurred;

~~(h) at least three samples must be taken in accordance with the assessment plan from each location of the inhabitable property where methamphetamine manufacturing or smoking are suspected to have occurred, including:~~

~~(i) at least three samples must be taken from each location of the inhabitable property where methamphetamine is suspected to have been stored;~~

~~(ii) at least three samples must be taken from each location of the inhabitable property where chemical staining is observed;~~

~~(iii)(c) at least three one samples must be taken from representative areas of the inhabitable property's each heating, ventilation, and air conditioning (HVAC) system's return side when such systems are present in the inhabitable property; and~~

~~(iv)(d) at least three one samples must be taken from each bathroom countertop, sink, toilet, shower/bath tub, and any other bathroom surface where methamphetamine contamination is suspected exhaust fan when exhaust fans are present in the inhabitable property.; and~~

~~(v) at least three samples must be taken from any other enclosed space within the inhabitable property where methamphetamine activities are suspected to have occurred, hazardous materials associated with methamphetamine use or manufacture are suspected to have been stored, or where chemical staining or contamination is observed; and~~

~~(vi) at least three samples must be taken from any other areas where methamphetamine contamination is suspected.~~

~~(2) Separate samples shall be obtained from surface material in each room or from each location within the inhabitable structure where methamphetamine contamination is suspected. Samples shall not be composited and, to avoid contamination, sample media shall not be combined or mixed with other sampling media.~~

~~(3) Each sampling event shall include a minimum of one laboratory blank, identified in a manner that avoids identification as a blank.~~

~~(4)(6) Each sampling plan shall include a minimum of two discretionary samples, to be utilized at the methamphetamine certified contractor's discretion based on updated field observations. When utilized these samples will be incorporated into the chain of custody, analysis by the laboratory, and final report.~~

(7) If the encountered site conditions at an inhabitable property are different from the expected site conditions, the methamphetamine certified cleanup contractor may complete and submit a modified plan to the department. An explanation of the unexpected conditions and deviations shall be included in the information submitted to the department with the modified plan.

AUTH: 75-10-1303, MCA

IMP: 75-10-1303, MCA

**REASON:** The department received substantive comments on proposed New Rule I. Those comments generally objected to the original proposed version of the rule as too detailed, directive, and costly. The department considered the comments and agreed that the sampling procedures in New Rule I should be simplified to reference the standards set forth in NIOSH 9111, the Methamphetamine Indoor Decontamination Standards in 75-10-1303, MCA, and this subchapter and to rely on the professional judgment of certified methamphetamine cleanup contractors.

Text throughout New Rule I has been reorganized, and language was removed and added where needed to present more simplified sampling procedures.

The changes to NEW RULE I(1) are necessary to reference the standards outlined in NIOSH 9111, the Methamphetamine Indoor Decontamination Standards in 75-10-1303, MCA, and these methamphetamine cleanup rules as protocol for verifying the attainment of the decontamination standard so that properties may be removed from the list maintained by the department in accordance with 75-5-1306, MCA, or obtain a certificate of fitness pursuant to these methamphetamine cleanup rules.

NEW RULE I(1)(a) requires the use of methanol over isopropanol when sampling listed properties to verify decontamination and remove the properties from the contaminated properties list. This requirement is necessary because, in controlled environments, methanol has a recovery rate of 87%, while laboratory-grade isopropanol has a 64% recovery rate. The increase of Montana's decontamination standard from .1 micrograms of methamphetamine per 100 sq. centimeters of surface material to 1.5 micrograms of methamphetamine per 100 sq. centimeters of surface material, a 1500% increase, has a substantial impact on the margin of error. Using a solvent other than methanol will increase the risk of erroneously clearing properties with remaining methamphetamine contamination.

NEW RULE I(1)(b) is necessary to prevent composite sampling for locating and establishing methamphetamine contamination. The compositing of multiple sample locations is inappropriate when verifying the decontamination standard of 1.5 micrograms is achieved. For example, if four walls were sampled using composite methodologies where walls A, B, and C test negative, and wall D was 5.6 micrograms, the result could be reported as 1.4 micrograms for all four walls. Composite sampling would not identify the specific contaminated surface.

NEW RULE I(2) is necessary to allow the department to review and approve alternative methods. The department recognizes that emerging standards or methodologies should be an option in cases where an advanced agency approval

has been requested and the proposed alternative is at least as protective as the methods in NEW RULE I(1).

NEW RULE I(3) is necessary to clarify that samples required under approved assessment, work, or clearance plans shall be collected from within the inhabitable property. The agency proposed NEW RULE I(7) to account for situations where a modified plan must be submitted to account for unexpected site conditions.

NEW RULE I(4) is necessary to describe sampling documentation, labelling, and chain of custody requirements that ensure the accuracy and integrity of sampling. The requirements in NEW RULE I(4) will provide clear documentation so that the department can ensure the decontamination standard in 75-10-1303, MCA is met before removing properties from the list maintained under 75-10-1306, MCA or providing a certificate of fitness.

NEW RULE I(5) is necessary to ensure consistent sampling while allowing professional judgment of the certified methamphetamine cleanup contractors in choosing the sampling approach. The proposed NEW RULE I(5) meets the legislative intent of 75-10-1303, MCA, by choosing sample numbers and locations based on the circumstances of the contamination.

NEW RULE I(6) is necessary to require the collection of surface material samples from two discretionary locations chosen at the methamphetamine certified cleanup contractor's discretion. These discretionary samples are necessary to account for variables between the anticipated and actual site conditions based on field observations and other factors. Sites are often not visited prior to an assessment, work, or clearance plan submittal, and discretionary sampling accounts for unforeseen conditions without the need to modify the assessment, work, or final clearance plan.

5. The department is reopening the comment period on proposed New Rule I with respect to the specific provisions identified in this Supplemental Notice of Proposed Adoption. Timely comments previously submitted on the original notice as well as comments received in response to this supplemental notice will be addressed in the adoption notice for the proposed rules. Concerned persons may submit their data, views, or arguments, in writing. Written data, views, or arguments may be submitted to the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or emailed to DEQMETHAMPHETAMINECLEANUP@mt.gov, no later than 5:00 p.m., on July 14, 2022. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

/s/ Angela Colamaria  
ANGELA COLAMARIA  
Rule Reviewer

BY: /s/ Christopher Dorrington  
CHRISTOPHER DORRINGTON  
Director  
Department of Environmental Quality

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through III and the repeal of	)	PROPOSED ADOPTION AND
ARM 24.28.101, 24.28.102,	)	REPEAL
24.28.103, 24.28.104, 24.28.105,	)	
24.28.106, 24.28.107, 24.28.108,	)	
24.28.110, 24.28.111, and 24.28.112	)	
pertaining to workers' compensation	)	
mediation	)	

TO: All Concerned Persons

1. On July 19, 2022, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed adoption and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

a. Join Zoom Meeting, <https://mt-gov.zoom.us/j87665885100>;  
Meeting ID: 876 6588 5100, Passcode: 280426; or

b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656;  
Meeting ID: 876 6588 5100, Passcode: 280426.

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on July 12, 2022, to advise us of the nature of the accommodation that you need. Please contact Theresa McGowan-Sroczyk, Employment Relations Division, P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-1389, facsimile (406) 444-4140, or Montana Relay Service at 711; or e-mail [TSroczyk@mt.gov](mailto:TSroczyk@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The department proposes to repeal the current administrative rules pertaining to mediation and adopt new rules. This proposal is in keeping with efforts to review administrative rules on a periodic basis. The proposal also furthers the purposes and interests set forth in the Governor's Red Tape Relief Initiative. As currently codified, the mediation rules are duplicative of statute, set forth business processes, and do not always assist users in understanding the mediation process. The proposed New Rules I through III set forth the information necessary to understand the mediation process, while avoiding these pitfalls.

4. The proposed new rules are as follows:

NEW RULE I REQUESTS FOR MEDIATION (1) A party may request mediation by submitting a request to the department:

- (a) by mail: Dispute Resolution Section, P.O. Box 8011, Helena, MT 59604;
- (b) by e-mail: [dlierdmediation@mt.gov](mailto:dlierdmediation@mt.gov); or
- (c) through other means specified by the department.

(2) Electronically submitted documents may bear either a copied manual signature, or an electronic signature.

AUTH: 39-71-2407, MCA

IMP: 39-71-2411, MCA

NEW RULE II PARTIES (1) The following persons must attend mediation, and may be represented by counsel:

- (a) the claimant;
- (b) any potentially liable insurer or the uninsured employers' fund, through a designated representative; and
- (c) in mediations involving the uninsured employers' fund, any potentially liable employer.

(2) Failure to attend mediation may result in dismissal or a report designating the party as having failed to cooperate in mediation.

AUTH: 39-71-2407, MCA

IMP: 39-71-2411, MCA

NEW RULE III MEDIATION PROCESS (1) Mediation must be held within 45 days of receipt by the department of the request for mediation. The time for mediation may be extended by mutual agreement of the parties and the mediator.

(2) The department will issue a notice of mediation, setting forth the time and means of mediation. The notice of mediation will also set forth any documentation or information requests for consideration by the mediator. The parties may supplement the requested information.

(3) Mediation may be held by telephone or remote conferencing platform, or by request of the parties and at the discretion of the mediator, by any other means believed to be beneficial in reaching a conciliated outcome.

(4) The parties may jointly agree to keep open a mediation.

(5) No more than ten days after the close of mediation, the mediator will set forth a written recommendation for the parties.

AUTH: 39-71-2407, MCA

IMP: 39-71-2411, MCA

5. The rules proposed to be repealed are as follows:

24.28.101 JURISDICTION

AUTH: 39-71-2407, MCA  
IMP: 39-71-2408, MCA

24.28.102 PARTIES, ATTENDANCE, REPRESENTATION

AUTH: 39-71-2407, MCA  
IMP: 39-71-2411, MCA

24.28.103 REQUESTS FOR MEDIATION

AUTH: 39-71-2407, MCA  
IMP: 39-71-2411, MCA

24.28.104 TIME FRAMES FOR SETTLEMENT CONFERENCES--NOTICES

AUTH: 39-71-2407, MCA  
IMP: 39-71-2411, MCA

24.28.105 MOTIONS TO DISMISS FOR FAILURE TO MEET SETTLEMENT REQUIREMENTS

AUTH: 39-71-2407, MCA  
IMP: 39-71-2411, MCA

24.28.106 MEDIATION CONFERENCES

AUTH: 39-71-2407, MCA  
IMP: 39-71-2411, MCA

24.28.107 ROLE OF MEDIATOR--UNREPRESENTED CLAIMANT

AUTH: 39-71-2407 MCA  
IMP: 39-71-2411 MCA

24.28.108 MEDIATOR'S REPORT--RECOMMENDATION

AUTH: 39-71-2407, MCA  
IMP: 39-71-2409, 39-71-2411, MCA

24.28.110 NOTICE TO MEDIATOR WHEN DISPUTE SETTLED

AUTH: 39-71-2407, MCA  
IMP: 39-71-2411, MCA

24.28.111 TIME-COMPUTATION UNDER MEDIATION RULES

AUTH: 39-71-2407, MCA

IMP: 39-71-2411, MCA

24.28.112 FILE INFORMATION

AUTH: 39-71-2407, MCA

IMP: 39-71-2411, MCA

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Theresa McGowan-Sroczyk, Employment Relations Division, P.O. Box 1728, Helena, Montana 59624-1728; facsimile (406) 444-4140, or e-mail TSroczyk@mt.gov, and must be received no later than 5:00 p.m., July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in paragraph 2 above or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

10. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR

Quinlan L. O'Connor  
Alternate Rule Reviewer

/s/ LAURIE ESAU

Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 32.2.403 pertaining to ) AMENDMENT  
diagnostic laboratory fees )  
 ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Livestock no later than 5:00 p.m. on July 18, 2022, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N Roberts St., Room 304, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9525; fax (406) 444-4316; TDD/Montana Relay Service 1 (800) 253-4091; or e-mail MDOLcomments@mt.gov.

3. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

32.2.403 DIAGNOSTIC LABORATORY FEES (1) and (2) remain the same.

(3) MVDL services and fees:	
(a) Clinical Microbiology/Bacteriology:	
Test	Fee
aerobic culture	<del>\$20.00</del> <u>\$30.00</u>
aerobic culture - additional isolate	<del>\$10.00</del> <u>\$15.00</u>
anaerobic culture	<del>\$24.00</del> <u>\$35.00</u>
anaerobic culture - additional isolate	<del>\$10.00</del> <u>\$22.00</u>
antibiotic sensitivity - per isolate	<del>\$15.00</del> <u>\$15.45</u>
brucella culture	<del>\$20.00</del> <u>\$20.60</u>
campylobacter culture	<del>\$16.00</del> <u>\$16.50</u>
dermatophyte culture	<del>\$30.00</del> <u>\$30.90</u>
direct microscopy	<del>\$10.00</del> <u>\$10.30</u>
fecal occult blood	<del>\$11.00</del> <u>\$11.30</u>
fungus culture	<del>\$30.00</del> <u>\$30.90</u>
listeria culture	<del>\$24.00</del> <u>\$24.70</u>
mycoplasma culture	<del>\$20.00</del> <u>\$20.60</u>
salmonella culture	<del>\$20.00</del> <u>\$20.60</u>



salmonella enteritidis, salmonella pullorum, or salmonella gallinarum confirmatory culture	<del>\$28.00</del> <u>\$28.85</u>
bovine tritrichomonas foetus culture	<del>\$7.00</del> <u>\$7.20</u>
feline tritrichomonas foetus culture	<del>\$9.00</del> <u>\$9.00</u>
giardia antigen SNAP test	<del>\$18.00</del> <u>\$18.55</u>
feline diarrhea diagnostic panel	<del>\$140.00</del> <u>\$140.00</u>
canine diarrhea diagnostic panel	<del>\$110.00</del> <u>\$110.00</u>
antimicrobial susceptibility testing MIC	<del>\$25.00</del> <u>\$25.00</u>
(b) Clinical Microbiology/Parasitology	
Test	Fee
cryptosporidia exam	<del>\$40.00</del> <u>\$10.30</u>
dirofilaria immitis (canine heartworm) ELISA	<del>\$12.00</del> <u>\$12.35</u>
dirofilaria immitis microfilaria filtration	<del>\$12.00</del> <u>\$12.35</u>
fecal flotation	<del>\$15.00</del> <u>\$15.45</u>
giardia ELISA	<del>\$34.00</del> <u>\$35.00</u>
parasite or arthropod identification	<del>\$28.00</del> <u>\$28.85</u>
liver fluke sedimentation	<del>\$30.00</del> <u>\$30.90</u>
trichinella – pepsin degradation	<del>\$84.00</del> <u>\$86.50</u>
(c) Clinical Pathology	
Test	Fee
Clinical profiles:	
small animal health screen	<del>\$58.00</del> <u>\$59.75</u>
large animal health screen	<del>\$60.00</del> <u>\$61.80</u>
small animal clinical profile	<del>\$43.00</del> <u>\$44.30</u>
large animal clinical profile	<del>\$46.00</del> <u>\$47.40</u>
small animal pre-anesthetic profile	<del>\$30.00</del> <u>\$30.90</u>
feline profile	<del>\$80.00</del> <u>\$82.40</u>
equine fitness profile	<del>\$40.00</del> <u>\$41.20</u>
Endocrinology:	
canine thyroid panel	<del>\$35.00</del> <u>\$36.05</u>
thyroid panel - feline	<del>\$30.00</del> <u>\$30.90</u>
canine total T4	<del>\$12.00</del> <u>\$12.35</u>
total T4	<del>\$12.00</del> <u>\$12.35</u>
canine TSH	<del>\$12.00</del> <u>\$12.35</u>
free T4 – canine & feline	<del>\$12.00</del> <u>\$12.35</u>
total T3	<del>\$12.00</del> <u>\$12.35</u>
cortisol: canine, feline, equine	<del>\$18.00</del> <u>\$18.55</u>
ACTH stimulation	<del>\$35.00</del> <u>\$36.05</u>
cortisol: pre & post	<del>\$35.00</del> <u>\$36.05</u>
dexamethasone suppression: pre & post	<del>\$50.00</del> <u>\$51.50</u>

Biochemistry panels:	
small animal panel	<del>\$30.00</del> <u>\$30.90</u>
large animal panel	<del>\$30.00</del> <u>\$30.90</u>
small animal hepatic panel	<del>\$24.00</del> <u>\$24.70</u>
small animal renal panel	<del>\$24.00</del> <u>\$24.70</u>
canine endocrine panel	<del>\$28.00</del> <u>\$28.85</u>
feline geriatric panel	<del>\$18.00</del> <u>\$18.55</u>
electrolyte panel	<del>\$13.00</del> <u>\$13.40</u>
expanded electrolyte panel	<del>\$18.00</del> <u>\$18.55</u>
Other serum chemistry	
PLI: canine, feline	<del>\$28.00</del>
bile acids: canine, feline, equine	<del>\$30.00</del> <u>\$30.90</u>
bile acids: pre & post	<del>\$42.00</del> <u>\$43.25</u>
<del>Phenobarbital</del>	<del>\$28.00</del>
Hematology:	
small animal CBC/differential	<del>\$18.00</del> <u>\$22.00</u>
large animal CBC/differential	<del>\$18.00</del> <u>\$22.00</u>
small animal CBC/without differential	<del>\$10.00</del> <u>\$15.00</u>
large animal CBC/without differential	<del>\$10.00</del> <u>\$15.00</u>
reticulocyte count	<del>\$8.00</del> <u>\$10.00</u>
feline anemia panel	<del>\$48.00</del> <u>\$49.45</u>
fibrinogen	<del>\$6.00</del> <u>\$8.00</u>
hemotropic parasite screen	<del>\$6.00</del> <u>\$6.20</u>
urinalysis	<del>\$15.00</del> <u>\$18.00</u>
Miscellaneous clinical pathology tests:	
blood cross match	<del>\$18.00</del> <u>\$18.55</u>
buffy coat exam	<del>\$32.00</del> <u>\$32.95</u>
canine direct coombs	<del>\$32.00</del> <u>\$32.95</u>
individual coagulation test – PT & APTT only	<del>\$24.00</del> <u>\$24.70</u>
IgG RID – bovine & equine	<del>\$18.00</del> <u>\$18.55</u>
ocular nitrate	<del>\$16.00</del> <u>\$16.50</u>
PLI: canine, feline	<del>\$28.00</del> <u>\$28.85</u>
<del>phenobarbital</del>	<del>\$28.00</del> <u>\$28.85</u>
<u>individual biochemical tests (each)</u>	<u>\$3.00</u>
(d) Cytology	
Test	Fee
CSF analysis: SG, microprotein, cytospin, cytology	<del>\$60.00</del> <u>\$61.80</u>
fluid analysis: total cell count, TP, SG, cytology	<del>\$47.00</del> <u>\$55.00</u>
FNA: imprint, smear, stained, or unstained	<del>\$45.00</del> <u>\$50.00</u>

(e) Histopathology/Immunohistochemistry	
Test	Fee
biopsy per site (includes special stains, as needed)	<del>\$55.00</del> <u>\$60.00</u>
mail-in necropsy (includes special stains, as needed)	<del>\$55.00</del> <u>\$60.00</u>
decalcification/keratin	<del>\$11.00</del> <u>\$11.30</u>
margin inking/evaluation	<del>\$10.00</del> <u>\$10.30</u>
immunohistochemistry (IHC)	<del>\$32.00</del> <u>\$35.00</u>
special stains (additional request)	<del>\$10.00</del> <u>\$10.30</u>
Duplicate/research/other slide processing (H&E)	<del>\$7.00</del> <u>\$8.00</u> per slide
(f) Milk Testing	
Test	Fee
added water	<del>\$5.00</del> <u>\$5.15</u>
antibiotic	<del>\$25.00</del> <u>\$25.75</u>
brucella ring	<del>\$8.00</del> <u>\$8.25</u>
coliform count	<del>\$10.00</del> <u>\$25.00</u>
component	<del>\$5.00</del> <u>\$10.00</u>
gerber	<del>\$5.00</del> <u>\$5.15</u>
majonnier	<del>\$15.00</del> <u>\$15.45</u>
phosphatase	<del>\$8.00</del> <u>\$8.25</u>
somatic cell count	<u>\$10.00</u>
—direct	<u>\$7.50</u>
—electronic	<u>\$4.00</u>
standard plate count	<del>\$8.00</del> <u>\$25.00</u>
yeast & mold	<del>\$8.00</del> <u>\$8.25</u>
(g) Molecular Diagnostics (PCR)	
Test	Fee
avian influenza (AI)	<del>\$40.00</del> <u>\$41.20</u>
Bovine coronavirus/rotavirus multiplex	<del>\$45.00</del> <u>\$46.35</u>
bovine viral diarrhea virus (BVDV):	
individual samples (ear notch samples)	<del>\$40.00</del> <u>\$41.20</u>
MVDL pooled (ear notch samples)	<del>\$65.00</del> <u>\$66.95</u>
E. coli - K99	<del>\$40.00</del> <u>\$41.20</u>
bovine respiratory disease viral PCR panel	<del>\$50.00</del> <u>\$51.50</u>
Classical Swine Fever, Foot & Mouth Disease, Vesicular Stomatitis Virus, Swine Influenza Virus, or Avian Paramyxovirus PCR	<del>\$40.00</del> <u>\$41.20</u> each
mycobacterium avium paratuberculosis (Johne's):	
individual sample	<del>\$36.00</del> <u>\$37.10</u>

MVDL pooled (up to 5 feces samples)	<del>\$42.00</del> <u>\$43.25</u>
salmonella enteritidis PCR	<del>\$36.00</del> <u>\$37.10</u>
tritrichomonas foetus:	
individual sample	<del>\$30.00</del> <u>\$30.90</u>
MVDL pooled (up to 5 samples)	<del>\$55.00</del> <u>\$56.65</u>
coxiella and chlamydia PCR	<del>\$36.00</del> <u>\$37.10</u>
mycoplasma bovis PCR	<del>\$36.00</del> <u>\$37.10</u>
rabbit hemorrhagic disease virus (RHDV) PCR	<del>\$40.00</del> <u>\$41.20</u>
clostridium perfringens typing PCR	<del>\$40.00</del> <u>\$41.20</u>
(h) Pathology	
Test	Fee
abortion workup, livestock	<del>\$65.00</del> <u>\$85.00</u>
neonatal diarrhea workup - livestock	<del>\$125.00</del> <u>\$140.00</u>
carcass disposal – incineration (livestock) (per lb)	\$0.50
carcass disposal – incineration (other species) (per lb)	\$1.00
Animal remains return/transfer	\$25.00
Pathologist time (after hours/insurance/legal cases)	\$200.00/hour
after hours carcass receiving	\$50.00
necropsy - livestock	<del>\$120.00</del> <u>\$125.00</u>
necropsy - other species	<del>\$150.00</del> <u>\$155.00</u>
spinal cord removal (in addition to necropsy fee):	
small animal	\$75.00
large animal	\$125.00
(i) Rabies	
Test	Fee
small animal	<del>\$35.00</del> <u>\$36.00</u>
livestock with histopathology	<del>\$65.00</del> <u>\$67.00</u>
(j) Serology	
Test	Fee
anaplasmosis cELISA	<del>\$10.00</del> <u>\$10.30</u>
avian influenza (AI) AGID	<del>\$8.00</del> <u>\$8.25</u>
bluetongue cELISA	<del>\$10.00</del> <u>\$10.30</u>
bovine leukemia virus (BLV) ELISA	<del>\$8.00</del> <u>\$8.25</u>
bovine leukemia virus (BLV) AGID	<del>\$10.00</del> <u>\$10.30</u>
bovine respiratory syncytial virus (BRSV) – SN	<del>\$10.00</del> <u>\$10.30</u>
bovine virus diarrhea type I, II – SN	<del>\$18.00</del> <u>\$18.55</u>
bovine virus diarrhea (BVD) ELISA	<del>\$6.00</del> <u>\$6.20</u>
brucella abortus:	

card, BAPA, or RAP	\$2.50
FP	\$3.50
rivanol, SPT, CF, STT	\$3.50
brucella ovis/canis ELISA	<del>\$9.00</del> <u>\$9.25</u>
caprine arthritis encephalitis (CAE)/ovine progressive pneumonia (OPP) cELISA	<del>\$9.00</del> <u>\$9.25</u>
epizootic hemorrhagic disease (EHD) – AGID	<del>\$13.00</del> <u>\$13.40</u>
equine infectious anemia (EIA) AGID individual sample	<del>\$10.00</del> <u>\$10.30</u>
equine infectious anemia (EIA) cELISA individual sample	<del>\$14.00</del> <u>\$14.40</u>
EIA Global Vet Link surcharge (per animal)	\$2.00
infectious bovine rhinotracheitis (IBR)-SN	<del>\$9.00</del> <u>\$9.25</u>
leptospirosis MAT:	
(routine) L. canicola, L. grippo, L. hardjo, L. ictero, L. pomona	<del>\$15.00</del> <u>\$15.45</u>
L. autumnalis, L. bratislava	\$3.00/serovar
mycobacterium paratuberculosis (PTB) ELISA	<del>\$9.00</del> <u>\$9.25</u>
ovine progressive pneumonia (OPP):	
AGID or cELISA	<del>\$8.00</del>
parainfluenza 3 (PI3) - HAI	<del>\$7.00</del> <u>\$7.20</u>
pseudorabies - gB ELISA	<del>\$7.50</del> <u>\$7.75</u>
salmonella pullorum MAT	<del>\$6.50</del> <u>\$6.70</u>
vesicular stomatitis (VS):	
CF	<del>\$55.00</del> <u>\$56.65</u>
NJ & Ind - SN	<del>\$18.00</del> <u>\$18.50</u>
west nile virus IgM ELISA	<del>\$26.00</del> <u>\$26.75</u>
epizootic hemorrhagic disease virus ELISA	<del>\$13.00</del>
(k) Serology - Small Animal	
Test	Fee
brucella canis - RSAT screen, 2ME-TAT confirmation	<del>\$26.00</del> <u>\$26.75</u>
feline infectious peritonitis (FIP) ELISA	<del>\$35.00</del> <u>\$36.00</u>
feline leukemia virus (FeLV) SNAP	<del>\$24.00</del> <u>\$24.75</u>
feline leukemia/feline immunodeficiency virus/heartworm SNAP	<del>\$32.00</del> <u>\$32.95</u>
(l) Virology	
Test	Fee
canine parvovirus SNAP	<del>\$30.00</del> <u>\$30.90</u>
fluorescent antibody (FA) testing - per agent:	
bovine coronavirus (BCV)	<del>\$11.00</del> <u>\$11.30</u>

bovine respiratory syncytial virus (BRSV) SN	\$11.00 \$11.30
bovine viral diarrhea virus (BVDV)	\$11.00 \$11.30
canine distemper (CDV)	\$11.00 \$11.30
canine parvovirus (CPV)	\$11.00 \$11.30
equine herpesvirus (EHV)	\$11.00 \$11.30
feline panleukopenia (FPLV)	\$11.00 \$11.30
feline infectious peritonitis (FIP)	\$11.00 \$11.30
feline herpes (FHV)	\$11.00 \$11.30
infectious bovine rhinotracheitis (IBR)	\$11.00 \$11.30
leptospira	\$11.00 \$11.30
parainfluenza - 3 Virus (PI-3)	\$11.00 \$11.30
porcine parvovirus (PPV)	\$11.00 \$11.30
chronic wasting disease IHC	\$34.00 \$35.00
chronic wasting disease ELISA	\$14.00 \$15.00
virus isolation (livestock only)	\$34.00 \$35.00
bovine viral diarrhea virus (BVDV) antigen SNAP test	\$7.00 \$7.20
equine virus arteritis (EVA) virus neutralization test	\$16.00 \$16.50
pregnancy test	\$4.50 \$4.60
small animal pregnancy test	\$25.00 \$25.75
coxiella burnetii (Q fever) ELISA	\$13.00 \$13.40
parainfluenza 3 serum neutralization (PI-3 SN)	\$7.00 \$7.20
canine distemper virus ELISA	\$12.00
toxoplasmosis IgG ELISA	\$14.50
equine rhinopneumonitis (equine herpesvirus) serum neutralization test	\$16.00
ruminant abortion serology panel	\$50.00
equine abortion serology panel	\$45.00
ovine abortion serology panel	\$50.00
brucella canis IFA	\$25.00
(m) Miscellaneous Tests/Fees	
Test	Fee
duplicate test result reporting (hard copy)	\$4.00
organization fee	\$75.00/hour
after hours reporting fee	\$20.00
shipping and handling (referrals)	\$20.00
incoming ground shipping (web submissions)	\$7.00 \$8.00
incoming overnight shipping (web submissions)	\$18.00
client requested corrected report fee	\$10.00
neospira ELISA	\$8.00

pregnancy ELISA	\$6.00
kits (abortion, diarrhea, necropsy, biopsy)	\$5.00
pads of forms	\$5.00
rabies shippers	\$22.00
blood tube mailers (small) (5 tubes)	\$2.50
blood tube mailers (medium) (4 tubes + slides)	\$5.00
blood tube mailers (large) (8 tubes + slides)	\$7.50
40 tube blood mailers	\$2.00
100 tube blood mailers	\$2.00
supply order handling fee	\$2.00
cleaning/decontamination	\$7.50
trich pouches	\$7.50
campylobacter tube	\$2.00
formalin jar (small)	\$2.50
formalin jar (large)	\$3.50

AUTH:81-2-102, 81-2-102, MCA  
IMP:81-1-301, 81-1-302, 81-2-102, MCA

REASON: The Montana Veterinary Diagnostic Lab (MVDL) is proposing adjustments to its testing fees for the purpose of helping to cover the increased cost of testing supplies, consumables, and other services related to conducting business. The proposed changes also include the addition of testing services not previously offered by the MVDL.

The proposed test fee adjustments are anticipated to have a small economic impact on the MVDL client base and the additional test offerings proposed are expected to provide additional convenience for our clients.

There are approximately 600 veterinary submitters, at least 150 nonveterinary submitters, and 100 governmental entities only minimally affected by the proposed fee adjustments. The increase in revenue is estimated to be \$23,000 from the new test offerings.

4. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Department of Livestock, P.O. Box 202001, Helena, Montana, 59620-2001; telephone (406) 444-9321; fax (406) 444-1929; or e-mail MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., July 22, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Executive Officer at the above address no later than 5:00 p.m., July 18, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 85 based upon approximately 600 veterinary submitters, at least 150 nonveterinary submitters, and 100 governmental entities affected by the proposed fee adjustments.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Darcy Alm  
Darcy Alm  
Rule Reviewer

/s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Director  
Department of Livestock

Certified to the Secretary of State June 14, 2022.



BEFORE THE BOARD OF OIL AND GAS CONSERVATION AND THE  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 36.22.307 and 36.22.1243	)	AMENDMENT
pertaining to adoption of forms and	)	
reports from transporters, refiners,	)	NO PUBLIC HEARING
purchasers, and gasoline or	)	CONTEMPLATED
extraction plants	)	

TO: All Concerned Persons

1. On August 17, 2022, the Department of Natural Resources and Conservation (department) and the Board of Oil and Gas Conservation (board) propose to amend the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than June 30, 2022, to advise us of the nature of the accommodation that you need. Please contact Ben Jones, Board of Oil and Gas Conservation, 2535 St. Johns Ave, Billings, MT 59102, 406-656-0040, or e-mail mtogpub@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

36.22.307 ADOPTION OF FORMS (1) The forms listed are adopted by reference and made a part of these rules for all purposes, and the same must be used as directed in giving notice and in making reports and requests to the board. Copies of printed forms will be supplied by the board on request.

(a) through (g) remain the same.

~~(h) Form No. 9 Monthly Gas Report~~

~~(i) Form No. 10 Gasoline or Other Extraction Plant~~

~~(j) Form No. 10A Continuation Sheet Form 10~~

(k) through (r) remain the same but are renumbered (h) through (o).

AUTH: 82-11-111, MCA

IMP: 2-4-201, 82-11-111, MCA

REASON: The department proposes to amend this rule to remove Form 9 and Form 10 because the forms serve no regulatory purpose.

36.22.1243 REPORTS FROM TRANSPORTERS, REFINERS, PURCHASERS, AND GASOLINE OR EXTRACTION PLANTS (1) All refiners of crude oil shall make monthly reports to the board on Form No. 8. ~~All purchasers of~~

~~gas shall make monthly reports to the board on Form No. 9. All operators of gasoline or other extraction plants shall make monthly reports to the board on Form No. 10. Such forms~~ The form shall contain all information required ~~therein~~ and shall be filed with the board on or before the last day of each month covering the preceding month.

AUTH: 82-11-111, MCA

IMP: 82-11-123, MCA

REASON: The department proposes to amend this rule because Form 9 and Form 10, on which this rule is based, serve no current regulatory purpose and ARM 36.22.307 is proposed to be amended to remove Form 9 and Form 10.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Ben Jones, Board of Oil and Gas Conservation, Billings, Montana, 59102; telephone (406) 656-0040; fax (406) 652-5305; or e-mail [mtogpub@mt.gov](mailto:mtogpub@mt.gov), and must be received no later than 5:00 p.m., July 22, 2022.

5. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Ben Jones at the above address no later than 5:00 p.m., July 22, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either ten percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be three persons based on a review of recent form submissions.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 2 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Roy Brown  
Roy Brown, Chairman  
Board of Oil and Gas  
Conservation

/s/ Amanda Kaster  
Amanda Kaster  
Director  
Department of Natural Resources and  
Conservation

/s/ Caitlin Buzzas  
Caitlin Buzzas  
Rule Reviewer

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through XXV and the repeal	)	PROPOSED ADOPTION AND
of ARM 37.111.201, 37.111.202,	)	REPEAL
37.111.205, 37.111.206, 37.111.207,	)	
37.111.211, 37.111.212, 37.111.215,	)	
37.111.216, 37.111.217, 37.111.218,	)	
37.111.220, 37.111.225, 37.111.226,	)	
37.111.230, 37.111.235, 37.111.501,	)	
37.111.504, 37.111.505, 37.111.506,	)	
37.111.515, 37.111.516, 37.111.517,	)	
37.111.518, 37.111.521, 37.111.522,	)	
37.111.523, 37.111.530, 37.111.531,	)	
37.111.532, 37.111.533, 37.111.534,	)	
37.111.535, 37.111.601, 37.111.604,	)	
37.111.605, 37.111.615, 37.111.616,	)	
37.111.617, 37.111.618, 37.111.621,	)	
37.111.622, 37.111.623, 37.111.624,	)	
pertaining to campgrounds, trailer	)	
courts, work camps, and youth camps	)	

TO: All Concerned Persons

1. On July 18, 2022, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption and repeal of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/86129791859?pwd=b04wMDI0enhnTVRBMHpMUStldlNzQT09>, meeting ID: 861 2979 1859, password: 689507; or

(b) Dial by Telephone: +1 646 558 8656, meeting ID: 861 2979 1859, password: 689507. Find your local number: <https://mt-gov.zoom.us/j/86129791859?pwd=b04wMDI0enhnTVRBMHpMUStldlNzQT09>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on July 5, 2022, to advise us of the nature of the accommodation that you need. Please contact Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rules as proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS In addition to the definitions contained in 50-52-101, MCA, the following definitions apply to this subchapter:

(1) "Alteration" means an expansion, change in purpose, or change in use of any portion of an existing trailer court, campground, work camp, or youth camp. The term includes changing from a trailer court to a campground, adding additional spaces, or changing from a work camp to a campground. The term does not include landscaping alterations that do not affect the number of spaces.

(2) "Applicant" means the owner or person responsible for the license application or plan submittal.

(3) "Approved" means acceptable to the regulatory authority, based on its determination of conformance with Montana statutes, this subchapter, and good public health practices.

(4) "Bedding" means a mattress, box springs, mattress cover, mattress pad, sheets, pillow slip, pillow, pillow cover, blanket, comforter, quilt, duvet, and/or bedspread.

(5) "Building authority" means the Department of Labor and Industry Building Codes Program or its local authorized agent.

(6) "Camp" means a parcel of land on which facilities are provided including designated sites, barracks or structures, any appurtenant water supply and distribution system, wastewater collection and treatment system, solid waste collection and disposal system, or food service and dining facilities.

(7) "Camping unit" means a portable, temporary dwelling supplied by the occupant, including a camping trailer, recreational vehicle, motor home, bus, van, pickup truck, yurt, tipi, or tent.

(8) "Connection" means a line that provides water or sewer service to a designated site, a mobile home site, or a single building or main building with accessory buildings and that is designed to service line specifications.

(9) "Contamination" means impairment or other alteration of the physical, chemical, or biological properties of water, including causing violation of the surface water quality standards contained in ARM Title 17, chapter 30, subchapter 6 or of the maximum contaminant levels for public water supplies contained in ARM Title 17, chapter 38, subchapter 2, or otherwise creating a hazard to human health.

(10) "Dependent unit" means a camping unit or a shelter unit without a water storage tank and a wastewater holding tank as an integral part of the unit and plumbing for potable water and a toilet.

(11) "Designated site" means the permanent area that is designated or used for a camping unit or a shelter unit.

(12) "Independent unit" means a camping unit or shelter unit containing a water storage tank and a wastewater holding tank as an integral part of the unit and plumbing for potable water and a toilet.

(13) "Local regulatory authority" means the local health officer, local sanitarian, or other authorized representative of the local government having jurisdiction.

(14) "Mobile home" means a trailer equipped with necessary service connections that is designed for use as a long-term residence and not on a

permanent foundation. The term may include mobile homes, trailers, manufactured homes, modular homes, park model homes, and tiny houses.

(15) "Mobile home space" means a space used for the accommodation of a single mobile home located within a trailer court.

(16) "Permanent foundation" means concrete, concrete block, or wood pier, resting on embedded concrete or concrete block footings. The term does not include mud sill, pier and post, wood blocks, concrete block, or other types of temporary support, resting on the ground.

(17) "Permanent structure" means a structure attached to a permanent foundation.

(18) "Pest" means insects, rodents, and other animals of public health concern.

(19) "Plumbing fixture" means a receptacle or device that:

(a) is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(b) discharges wastewater.

(20) "Potable Water" means water that meets the standards for drinking purposes of the regulatory authority having jurisdiction, or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency's National Primary Drinking Water Regulations (40 CFR Part 141).

(21) "Public sewage system" means a public sewage system as defined in 75-6-102, MCA.

(22) "Public water supply system" means a public water supply system as defined in 75-6-102, MCA.

(23) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(24) "Sanitary dump station" means a facility connected to an approved wastewater treatment system and designed for receiving liquid and water-carried waste from camping unit holding tanks.

(25) "Service building" means a structure that provides bathing, toilet, hand washing, or other facilities required by this subchapter.

(26) "Sewer riser" means that portion of the sewer connection which extends vertically above the ground elevation and terminates at each camping unit, shelter unit, or mobile home space.

(27) "Shelter unit" means a structure supplied by the licensee, which may have plumbing, including potable water or a toilet. The term includes barracks, dorms, tents, cabins, yurts, and tipis.

(28) "Side by side separation" means a measure of distance between the two closest points of adjacent structures.

(29) "Solid waste" means solid waste as defined in 75-10-203, MCA, and includes abandoned, damaged, or dismantled mobile homes and recreational vehicles.

(30) "Special event campground" means a temporary or occasional use campground, work camp, or youth camp operated by a single operator at one location for individual events such as a fair, rally, or project involving the gathering of camping units for a maximum period of 14 consecutive days.

(31) "State waters" means state waters as defined in 75-5-103, MCA.

(32) "Stop and waste valve" means any unit that permits the outlet valve to be drained through a port or drain hole provided in the valve.

(33) "Trailer" means a dwelling intended to be portable and mounted on wheels.

(34) "Wastewater" means water-carried waste including household, commercial, or industrial wastes, chemicals, human excreta, or animal and vegetable matter in suspension or solution.

(35) "Wastewater treatment system" means a system that receives wastewater for purposes of treatment, storage, or disposal. The term includes public wastewater treatment systems and all disposal methods described in Department of Environmental Quality Circulars DEQ-2 and DEQ-4.

(36) "Water riser" means the portion of the water connection which extends vertically above the ground elevation and terminates at a designated point at each designated site, mobile home space, or water station.

(37) "Water station" means a facility for supplying potable water to the water storage tanks of camping units or other potable water containers.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE II INCORPORATION BY REFERENCE (1) For purposes of this subchapter, the Department of Public Health and Human Services adopts and incorporates by reference the following:

(a) Department of Environmental Quality Circular DEQ-4, "Montana Standards for Subsurface Wastewater Treatment Systems" (2013 edition), and Circular, DEQ-2 "Design Standards for Public Sewage Systems" (2018 edition), setting forth minimum requirements for the design and preparation of plans and specifications for subsurface wastewater treatment systems.

(b) ARM Title 17, chapter 30, subchapter 6, containing surface water quality standards (last amended December 24, 2020).

(c) ARM Title 17, chapter 38, subchapters 1 and 2, containing public water supply maximum contaminant levels and requirements (last amended February 14, 2020).

(d) ARM Title 17, chapter 36, subchapters 1, 3, 6, and 8 setting forth subdivision review requirements (last amended February 14, 2020).

(e) Food and Consumer Safety (FCS) Circular 1, (2016 edition), setting forth standards for non-public water supplies serving licensed establishments.

(f) ARM Title 37, chapter 115, subchapter 1 containing swimming pool and spa requirements (last amended May 15, 2020).

(g) ARM 24.301.301, setting forth state plumbing code requirements (last amended June 10, 2022).

(h) "Manual of Cross-Connection Control" (10th edition), published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California. This publication sets forth standards for backflow and back siphonage prevention devices.

(i) American Society of Sanitary Engineering (ASSE) Standard 1001-2021, "Performance Requirements for Atmospheric Type Vacuum Breakers" (ANSI

Approved: November 2021). This standard sets forth regulations and requirements for the use of atmospheric type vacuum breakers. These devices provide protection of the potable water supply against pollutants or contaminants that enter the system due to back siphonage through the outlet.

(j) ASSE Standard 1003-2020e2, "Performance Requirements for Water Pressure Reducing Valves for Potable Water Distribution Systems" (ANSI Approved: December 2020). This standard sets forth regulations and requirements for water pressure reducing valves for domestic water distribution systems. These devices reduce static and flowing pressures in water distribution systems. Devices covered by this standard are self-contained, direct acting, single diaphragm types.

(k) ASSE Standard 1004-2017, "Performance Requirements for Backflow Prevention Requirements for Commercial Dishwashing Machines" (ANSI Approved: January 2017). This standard sets forth regulations and requirements for backflow prevention devices used on potable water supplies connected to commercial dishwashing machines.

(l) ASSE Standard 1011-2017, "Performance Requirements for Hose Connection Vacuum Breakers" (ANSI Approved: November 2017). This standard sets forth regulations and requirements for the use of devices designed to be installed on the discharge side of the hose bibb, hydrant, or faucet which is fitted with hose threads.

(m) ASSE Standard 1012-2021, "Performance Requirements for Backflow Preventers with an Intermediate Atmospheric Vent" (ANSI Approved: November 2021). This standard sets forth regulations and requirements for devices that have functional capabilities for preventing both back-siphonage and back pressure and which can operate under continuous or intermittent pressure conditions.

(n) ASSE Standard 1013-2021, "Performance Requirements for Reduced Pressure Principle Backflow Prevention Assemblies" (ANSI Approved: June 2021). This standard sets forth regulations and requirements for reduced pressure principle backflow prevention assemblies. These devices are designed to operate under continuous pressure conditions.

(o) ASSE Standard 1015-2021, "Performance Requirements for Double Check Backflow Prevention Assemblies" (ANSI Approved: June 2021). This standard sets forth regulations and requirements for double check backflow prevention assemblies. These assemblies are designed and constructed to operate under intermittent or continuous pressure conditions.

(p) ASSE Standard 1020-2020, "Performance Requirements for Pressure Vacuum Breaker Assemblies" (ANSI Approved: February 2020). This standard sets forth regulations and requirements for vacuum breaker assemblies. These devices are intended for use in both high and low hazard applications.

(q) ASSE Standard 1024-2017(R2021), "Performance Requirements for Dual Check Backflow Preventers" (ANSI Approved: June 2021). This standard sets forth regulations and requirements for dual check backflow preventers. The devices covered by this standard are intended to protect the potable water supply from low hazard pollution at residential service lines and individual outlets.

(r) ASSE Standard 1047-2021, "Performance Requirements for Reduced Pressure Detector Backflow Prevention Assemblies" (ANSI Approved: June 2021). This standard sets forth regulations and requirements for reduced pressure detector



backflow prevention assemblies. These devices are designed to detect low rates of flow up to 2.0 gpm (0.13 L/s) caused by leakage or unauthorized use.

(s) ASSE Standard 1048-2021, "Performance Requirements for Double Check Detector Backflow Prevention Assemblies" (ANSI Approved: June 2021). This standard sets forth regulations and requirements for double check detector backflow prevention assemblies. These assemblies are also designed to detect low rates of flow up to 2 gpm (0.13 L/s) caused by leakage or unauthorized use.

(t) ASSE Standard 1052-2016 "Performance Requirements for Hose Connection Backflow Preventers" (ANSI Approved: June 2016). This standard sets forth regulations and requirements for hose connection backflow preventers. These devices are designed to be installed on the discharge side of a hose threaded outlet on a potable water system. These two-check devices protect against backflow, due to back siphonage or low-head backpressure, and are field testable to certify protection under the high-hazard conditions present at a hose threaded outlet.

(u) ASSE Standard 1053-2019, "Performance Requirements for Dual Check Backflow Preventer Wall Hydrants – Freeze Resistant Type" (ANSI Approved: April 2019). This standard sets forth regulations and requirements for freeze resistant dual check backflow preventer wall hydrants. These devices protect the potable water supply against back siphonage and backpressure without damage to the device due to freezing.

(v) ASSE Standard 1056-2013, "Performance Requirements for Spill Resistant Vacuum Breaker Assemblies" (ANSI approved: February 2021). This standard sets forth regulations and requirements for assemblies classified as spill-resistant vacuum breaker assemblies. These assemblies are designed for installation in water systems that are normally under continuous pressure conditions.

(w) ASSE Standard 1057-2012, "Performance Requirements for Freeze Resistant Sanitary Yard Hydrant with Backflow Protection" (ANSI Approved: August 2012). This standard sets forth regulations and requirements for assemblies classified as spill-resistant vacuum breaker assemblies. These assemblies are designed for installation in water systems that are normally under continuous pressure conditions.

(2) To obtain, or for information on how to obtain, any document or publication incorporated by reference, contact the Department of Public Health and Human Services, Public Health and Safety Division, Communicable Disease Control and Prevention Bureau, 1400 E. Broadway, P.O. Box 202951, Helena, MT 59620-2951, phone: (406) 444-2837. Copies of the ASSE standards referenced under (1)(i) through (1)(w) are available at <https://www.asse-plumbing.org/asse/standards/product/current-standards>.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

**NEW RULE III GENERAL OPERATING REQUIREMENTS** (1) The environmental conditions of the establishment, including soil, groundwater level and quality, drainage, and topography, shall not create hazards to the property or health or safety of the occupants.

(2) The licensee and manager of an establishment are responsible for ensuring that the requirements of this subchapter are met.

(3) The licensee must have a manager on duty or on call to maintain the establishment and its facilities in accordance with this subchapter and Title 50, chapter 52, MCA.

(a) The manager shall have authority to take immediate action, including actions requiring the expenditure of funds, to correct public health problems.

(b) The licensee must provide occupants and the local regulatory authority the manager's name and contact information.

(4) Each designated site or mobile home space must be clearly marked and numbered on a sign at each site or on the mobile home, except at special event campgrounds, and on a map available to all campground occupants.

(5) Each mobile home shall be fully skirted. Skirting shall be attached to the mobile home. An access opening in the skirting must be provided near the water and sewer connections.

(6) Designated sites may be located only in an area not subject to the accumulation of storm water or surface water.

(7) Pets must not be permitted to run at large or create a nuisance within the establishment. Pets must be limited to the area of the designated site or mobile home space unless leashed. The establishment is responsible for addressing any nuisance caused by a pet.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE IV PLAN APPROVAL (1) The department is the regulatory authority for plan review, unless the local regulatory authority has been approved by the department, in writing, to review plans. Plans may be reviewed jointly by the county and the department.

(2) The owner, or their designee, must submit plans and specifications for any new or altered establishment to the regulatory authority for examination and approval before beginning construction or alteration. Facilities proposed in the plans and specifications must meet the requirements of this subchapter.

(3) Plans and specifications must include a scaled site plan showing the location of all improvements and must show how all applicable rules will be met, including those regarding water supply, wastewater disposal, and solid waste disposal. If the proposal requires Department of Environmental Quality Sanitation in Subdivision review, public water review or public wastewater review, documentation from the Department of Environmental Quality approving the subdivision or public facilities must be submitted as part of a complete plan review application. Specifications and floor plans for any permanent structures, such as service buildings, must be submitted.

(4) No change in plans or specifications involving any provision of this subchapter may be made unless the change is approved in writing by the regulatory authority.

(5) The plans and specifications must be submitted in a manner approved by the department.

(6) Plans and specifications submitted under this rule are reviewed under authority provided by Title 50, chapter 52, MCA, and this subchapter. Regulatory authority approval of plans and specifications under this subchapter does not constitute approval for compliance with planning, building codes, fire codes, or other state, federal, or local requirements (including compliance with the Americans with Disabilities Act, Public Law 101-336).

(7) Within 60 days after the receipt of a complete plan submittal, the regulatory authority will make any deficiencies known to the applicant.

(8) Access, density of sites, and site spacing must conform to local planning and/or subdivision requirements. Mobile homes must be located with at least 20 feet of side-to-side separation.

(9) Approval to construct will be limited to two years, after which, if a license has not been issued, plans and specifications must again be submitted for re-evaluation under rules in effect at the time of resubmittal.

(10) Non-licensure for two or more years requires a new submittal of plans and specifications for review and approval by the local regulatory authority and the department before the establishment is relicensed. The establishment must comply with the requirements of current rule at the time of submission.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE V WATER SUPPLY REQUIREMENTS (1) The establishment shall always provide an adequate and potable supply of water, as approved by the local regulatory authority.

(2) If an existing public water supply of satisfactory quantity and pressure is available, and the owner of the public water system agrees to provide service, connection must be made to the public water system and its supply used exclusively except for non-potable water uses approved by the department in writing.

(3) Public water supply systems must be approved by the Department of Environmental Quality and meet the requirements of ARM 17.38.101 et seq., or, if applicable, must be approved by the U.S. Environmental Protection Agency.

(4) Non-public water supply systems must meet the requirements of Food and Consumer Safety (FCS) Circular 1, 2016 edition.

(5) For campgrounds, the local regulatory authority, upon consultation with the department, may allow a variance from the requirements of (1) for a potable water supply upon demonstration by the applicant that the deviation does not have the potential to cause adverse public health effects. The applicant must submit a plan that demonstrates that the public is informed of the absence of a potable water supply, and that the public is warned that the existing water in the area is not suitable for drinking or other uses that may adversely affect public health. This deviation will be noted on the establishment license.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE VI INDIVIDUAL WATER CONNECTIONS (1) Plans for a new

or modified water distribution system must be approved by the regulatory authority before construction. The system must be designed to protect the water from contamination. This includes providing protection from backflow and precluding the creation of cross connections.

(2) If individual water connections for camping units, shelter units, or mobile home spaces are provided, the following standards apply:

(a) Water riser pipes must extend at least 24 inches above ground elevation with the outlet directed downward for campgrounds, and water risers for a mobile home must extend at least four inches above ground elevation. Surface water must be directed away from the riser.

(b) Adequate provision must be made to prevent freezing of service lines, valves, and riser pipes.

(c) Water risers must be located and constructed to minimize potential for damage from trailers. Protection may consist of posts, fences, or other permanent barriers.

(d) Stop and waste type control valves may not be installed underground.

(e) Where health hazards exist that could lead to the contamination of the water supply, the water supply must be protected against backflow or back siphonage. A backflow or back siphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) or the Foundation for Cross Connection Control and Hydraulic Research (FCCCHR) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

(f) There must be at least ten feet of horizontal distance between a sewer line connection and a stop and waste valve.

(g) A water connection must be laid at least ten feet horizontally from any existing or proposed sewer line or in a manner allowed under the state plumbing requirements described in ARM 24.301.301.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

#### NEW RULE VII WASTEWATER TREATMENT REQUIREMENTS

(1) Wastewater treatment systems must be located, designed, constructed, and operated in accordance with local and state regulations.

(a) A failed wastewater treatment system must not be used until repaired or replaced. An alternative system approved by the local regulatory authority must be provided during the interim.

(b) All plumbing fixtures must discharge to an approved wastewater treatment system.

(c) Wastewater may not discharge onto the ground surface or to surface water.

(2) An establishment that limits occupancy of individuals to 14 days or less may use an alternative system with applicable approval by the local regulatory authority, Department of Environmental Quality, or department for sewage disposal, provided the system does not place sewage in a location likely to cause pollution of

state waters, in violation of Title 75, chapter 5, MCA, or pose potential adverse public health effects.

(3) If the establishment provides individual connections for wastewater disposal:

- (a) the sewer riser must be four inches in diameter;
- (b) surface drainage must be diverted away from the riser;
- (c) if serving a mobile home space, the sewer riser must be located so that connection to the mobile home will approximate a vertical position;
- (d) the sewer riser must be separated from the water riser by at least six feet;
- (e) the sewer riser must be securely plugged or capped when not in use; and
- (f) flex hose may be used to connect an independent or dependent unit if the unit will be connected for less than 30 days. Connections for mobile homes and units that will be connected for more than 30 days must meet state plumbing codes and local wastewater treatment and disposal regulations.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE VIII TOILET FACILITIES (1) Toilet facilities are required for establishments with dependent unit sites. Toilets must be located within 300 feet of sites for dependent units and must be accessible whenever the establishment is operating.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE IX POOLS AND SPAS (1) A public swimming pool, as defined under 50-53-102, MCA, provided by a campground, trailer court, work camp, or youth camp must be licensed, constructed, and operated in accordance with ARM Title 37, chapter 115, subchapter 1.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE X WATER STATION (1) Establishments that do not have individual water connections for all designated sites shall provide a water station.

(2) A water station must consist of at least a water hydrant and the necessary appurtenances, and must be protected against backflow, back siphonage, and hose contamination. The backflow or back siphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) or the Foundation for Cross Connection Control and Hydraulic Research (FCCCHR) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

(3) A water station must be separately located from the sanitary dump station to ensure that the water station hose is not used to flush sewage from the sewage holding tank.

(4) A water station must be provided within 300 feet of each site for dependent units that lack individual water connections.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XI SANITARY DUMP STATION (1) A sanitary dump station is required in each establishment that has designated sites for independent units, unless the following circumstances exist:

(a) each independent unit designated site is provided with an individual sewer riser;

(b) a sanitary dump station accepted by the regulatory authority is available for public use on a full-time basis within 15 miles from the campground, and the campground owner or operator has posted a sign at the campground stating the location of the nearest available sanitary dump station; or

(c) the regulatory authority determines that installation of a sanitary dump station is not feasible because of lack of electricity, water under pressure, or other sanitary reasons.

(2) If a sanitary dump station is required, as determined under (1), there must be at least one station for every 100 independent unit designated sites lacking individual sewer risers.

(3) The sanitary dump station shall consist of at least a trapped four inch sewer riser pipe connected to an approved wastewater treatment system, surrounded at the inlet end by a concrete apron sloped to the drain, and with a suitable hinged cover provided for the riser. A water outlet shall be included to permit sanitary maintenance of the station. The water outlet shall be marked: "THIS WATER FOR FLUSHING AND CLEANING — UNSAFE FOR DRINKING." The water outlet hose shall be mounted on a reel or tower to ensure that the nozzle does not touch the ground when not in use. The water outlet shall be provided with an approved device to prevent backflow.

(4) A sanitary dump station may not be located within 100 feet of a permanent body of surface water or well nor within 75 feet of a designated site.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XII SERVICE BUILDING REQUIREMENTS (1) A service building must be provided at each establishment that provides dependent unit designated sites unless the campground limits occupancy of individuals to 14 days or less. The service building is subject to the following requirements:

(a) the service building must be of permanent construction and equipped with lighting, handwashing sinks, toilets, and a janitorial sink;

(b) interior service building surfaces in plumbed areas must be smooth, nonabsorbent, and easily cleanable;

(c) showers, if provided, must have non-slip surfaces sloped to drain, provide warm water, not to exceed 120°F, and provide adequate ventilation;

(d) all windows, doors, and other openings must be screened or closed;

- (e) the service building must be conveniently located within a radius of 300 feet from all sites designated for use by dependent units;
- (f) the service building must be connected to approved water and wastewater treatment systems;
- (g) the number and type of plumbing fixtures must be provided in accordance with Table I below. If a campground has more than 100 dependent unit designated sites, two additional toilets shall be provided for every additional 75 designated sites. The numbers may be either unisex toilet facilities or divided equally between separate men's and women's facilities.

TABLE I

# Dependent Unit Designated Sites	# Toilets	# Handwashing Sinks
1 - 15	2	2
16 - 30	4	4
31 - 45	6	6
46 - 60	8	8
61 - 80	10	10
81 - 100	12	12

- (h) all equipment must be kept clean and in good repair. All showers, toilets, and handwashing sinks must be cleaned with disinfectant products regularly; and
  - (i) the service building must have hand cleaner, disposable towels or hot air dryers, and toilet tissue at all times of operation.
- (2) All cooking shelters or other buildings must be cleaned after each day's use during the operating season.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XIII SHELTER UNITS (1) Each shelter unit will be maintained as follows:

- (a) the shelter unit must be thoroughly cleaned after being occupied;
- (b) the shelter unit must be maintained in good repair and in a safe and sanitary condition;
- (c) floor and wall mounted furnishings must be easily moved or mounted in such a way as to allow for easy cleaning;
- (d) all bedding, towels, and other laundered items must be washed and dried as specified in ARM 37.111.121;
- (e) each mattress, when provided, must be covered with a machine washable cover and must be kept in clean and sanitary condition;
- (f) utensils used for food or drink must be washed, rinsed, and sanitized by camp employees or single-service items must be used. All utensils used for food or

drink must be stored, handled, and dispensed in a manner which prevents contamination;

(g) floors and walls of rooms subject to large amounts of moisture must be smooth, non-absorbent, and easily cleanable;

(h) bathing facilities, if present, must be provided with anti-slip surfaces; and

(i) the temperature of water for handwashing and bathing must not exceed 120°F.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XIV SOLID WASTE REQUIREMENTS (1) The establishment must ensure that the storage, collection, and disposal of solid waste does not cause health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. The licensee or manager must take immediate measures to alleviate public health or sanitation hazards presented by solid waste in the establishment.

(2) The establishment shall provide adequate solid waste containers and service to the establishment.

(3) Solid waste shall be kept in durable, easily cleanable, pest resistant, wildlife resistant, leak proof, and nonabsorbent containers. Containers for solid waste must be located within 300 feet of each designated site and mobile home space, except that the regulatory authority may approve a centrally located solid waste handling system.

(4) Containers must be provided in sufficient number and capacity to store all solid waste between collections. The regulatory authority may require additional capacity if waste is documented outside or overflowing from containers.

(5) Containers for solid waste used in food preparation and in areas used for washing utensils shall be kept covered or closed when not in use and emptied at a frequency that minimizes the development of objectionable odors and other conditions that attract or harbor pests and wildlife.

(6) Recyclable materials shall be stored in a clean and sanitary manner to prevent pest attraction and nuisance odors.

(7) Solid waste shall be disposed of at least weekly at an approved landfill facility.

(8) Other solid waste removal arrangements may be approved by the regulatory authority if they provide for timely and adequate solid waste removal and waste does not accumulate outside of containers.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XV PEST AND WEED CONTROL (1) Buildings and other structures must be maintained to be kept free of harborage for, and infestations of, pests and wildlife.

(2) Any extermination or control measures involving insecticides, rodenticides, or herbicides must strictly conform to the manufacturer's application instructions, and not be used within 100 feet of a drinking water well.



(3) The growth of brush, weeds, grass, and other plants must be controlled within the establishment to eliminate harborage of pests.

(4) The growth of ragweed, poison ivy, poison oak, poison sumac, and other similarly noxious plants must be controlled within the area of the establishment frequented by occupants.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

#### NEW RULE XVI FIRE PROTECTION AND HAZARDOUS SUBSTANCES

(1) Facilities shall be kept free of litter, rubbish, and other flammable materials.

(2) Chemicals, flammables, and other hazardous substances shall be used for their intended purpose and according to the manufacturer's directions stated on the container label.

(3) Chemicals and other hazardous substances shall be stored according to the manufacturer's directions in their original, covered, and labeled containers in a separate, secure area accessible only by appropriate employees.

(4) Flammable materials shall be stored in a well-ventilated structure, separate from areas occupied by campers and employees.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XVII REGISTRATION (1) All campgrounds, youth camps, and work camps shall maintain a camp register that contains the names, home addresses, and phone numbers of the occupants.

(2) A youth camp shall maintain a camp register that also contains names and phone numbers of persons to notify in case of an emergency for employees and campers.

(3) Outside groups that rent a campground or youth camp must maintain a list of attendees to be made available upon request to the regulatory authority for purposes of investigation of communicable disease or other conditions of public health importance.

(4) Registers shall be retained for a minimum of two years.

(5) Registers shall be made available to the regulatory authority upon request.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XVIII SPECIAL EVENT CAMPGROUNDS (1) A special event campground may be licensed by the local regulatory authority for a single event that takes place at a single venue for 14 days or less.

(2) The operator of a special event campground must submit a complete plan review application to the regulatory authority at least 30 days prior to opening and must receive approval from the regulatory authority before opening.

- (3) The application must include a site plan showing:
  - (a) the area that will be used for camping;
  - (b) the location of the event;
  - (c) an estimate of the number of people to be accommodated;
  - (d) the maximum number of people that can be accommodated;
  - (e) the number of toilets, handwashing, and bathing facilities to be provided and plans for servicing and maintenance;
  - (f) the water supply source and distribution method; and
  - (g) the method of handling solid and liquid waste.
- (4) Water must be supplied by a public water supply, licensed water hauler, bottled water, or alternative system approved by the local regulatory authority in compliance with state and local regulations.
- (5) Wastewater treatment systems must meet the requirements of [NEW RULE VII].
- (6) The licensee must ensure solid waste requirements under [NEW RULE XIV] are met.
- (7) The operator must comply with all components of the approved plan. No modifications to the plan are allowed without regulatory authority approval.

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

NEW RULE XIX FOOD SERVICE (1) An establishment preparing or serving food that meets the definition of a "retail food establishment" under 50-50-102, MCA, must obtain a separate retail food license. An establishment as defined in 50-51-102, MCA, that is licensed as a public accommodation may serve food to registered guests and day visitors without obtaining a retail food license pursuant to 50-50-102(21)(c)(xii), MCA.

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

NEW RULE XX LICENSURE (1) The local regulatory authority shall perform a pre-licensing inspection prior to submitting a complete license application with the appropriate fee found in 50-52-202, MCA.

(2) A licensee shall give notice in writing to the local regulatory authority at least 30 days prior to selling, transferring, giving away, or otherwise disposing of interest in or control of the establishment. The notice must include the name and address of the person assuming ownership or control of the establishment. The new owner must contact the local regulatory authority to obtain a new license. At the regulatory authority's discretion, a plan review may be required as part of the change of ownership.

(3) Licenses are not transferrable.

(4) The license must be posted on the premises at a location approved by the local regulatory authority.

(5) The licensee or manager of an establishment may not accept or offer camping units, shelter units, or mobile homes in excess of the number and types approved under the license.

AUTH: 50-52-102, MCA

IMP: 50-52-102, 50-52-202, MCA

NEW RULE XXI YOUTH CAMPS (1) In addition to the other requirements of this subchapter, the operator of a youth camp must:

(a) ensure that the site is as free as reasonably possible of objects or conditions which are hazardous to humans;

(b) post a warning of potential natural hazards and otherwise inform each camper of the danger; and

(c) ensure that each facility and item of equipment used in camp programs are of sufficient quality and properly maintained.

(2) All cleaning compounds and other toxic chemicals not stored in the product container or package in which it was obtained must be stored in a labeled container that clearly identifies the product by name.

(3) Adequate and convenient janitorial facilities including a sink and storage area for equipment and chemicals must be provided.

(4) Poisonous compounds shall not be stored in food preparation areas or food storage areas or in any areas where campers may initiate unsupervised contact.

(5) In cases in which a youth develops symptoms of illness while at camp, the operator of the youth camp must:

(a) isolate the child immediately in a room or area segregated for that purpose;

(b) as soon as possible, contact, inform, and consult with a parent or guardian of the child about the illness and take one of the following actions:

(i) request that the child be picked up and taken home immediately;

(ii) if the parent or guardian agrees, observe the child for a reasonable time and, if the symptoms do not pass, request that the child be taken home; or

(iii) if the parent or guardian agrees, call a physician, and follow the physician's instructions.

(6) Cases of suspected communicable diseases and conditions listed under ARM 37.114.203 must be reported by telephone to the local health officer upon discovery or as soon as possible thereafter if no contact can be made the same day.

(7) A youth camp operator shall develop and enforce policies on first aid which include, at a minimum:

(a) keeping a record of an emergency phone number for the parent or guardian of each child attending the camp;

(b) measures to be taken in case of injury; and

(c) having a physician on call and a person on-site who is trained in Red Cross basic first aid during camp-sponsored activities. Recommendations for first aid supplies and policies may be secured from the Department of Public Health and Human Services, Emergency Medical Services and Injury Prevention Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(8) The youth camp operator must prepare and maintain a record of each instance of fatality stemming from an injury occurring at camp and for each illness or injury occurring at camp which results in a camper either being admitted to the hospital or being diagnosed with a reportable disease listed under ARM 37.114.203. The record must contain:

- (a) description of the injury or illness;
- (b) description of how the injury or illness occurred;
- (c) the date and time it occurred; and
- (d) measures taken to prevent similar injuries from happening in the future.

(9) A youth camp that prepares or serves food to employees or registered guests must follow the "Food Code, 2013, Recommendations of the United States Public Health Service, Food and Drug Administration," adopted and incorporated by reference under ARM 37.110.260.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XXII WORK CAMPS (1) Whenever operation of a work camp is permanently discontinued, all septic tanks, privy vaults, and cisterns must be removed or emptied and subsequently filled with solid materials.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

NEW RULE XXIII VARIANCES (1) The regulatory authority may grant a variance to a requirement of this subchapter if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the variance.

(2) To apply for a variance, the applicant must submit the following information:

- (a) a statement as to why the applicant is unable to comply with the rule to which the variance is requested;
- (b) the nature and duration of the variance requested;
- (c) a statement of how the intent of the rule will be met and the reasons why the public health or safety would not be jeopardized if the variance is granted; and
- (d) other information deemed necessary by the regulatory authority to establish that a health hazard or nuisance will not result from granting the variance.

(3) The regulatory authority must retain the variance application and decision in the establishment file as long as the variance is applicable.

(4) Prior to issuing a variance, the local regulatory authority will contact, notify, and consult with the department about any similar variances to help ensure uniform and equitable application of the law.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

#### NEW RULE XXIV INSPECTIONS AND COMPLIANCE REQUIREMENTS

(1) In accordance with 50-52-303, MCA, a licensee shall allow the local regulatory authority to perform inspections at reasonable hours for determining compliance with this subchapter.

(2) Whenever an inspection is made to determine compliance with this subchapter, the findings must be recorded on an inspection form approved by the department. Within 15 days after each inspection, the local regulatory authority shall give the owner or operator a copy of the inspection report.

(3) If the regulatory authority determines that one or more violations exist, the inspection form must designate the administrative rule(s) that have been violated, the observed basis of the violations(s), any required corrective action, and the date by which the correction must be implemented.

(4) If plans for correction are required, the licensee shall submit necessary plans to the local regulatory authority that include a proposed time schedule for corrective measures. The time schedule and plans, if approved, shall become conditions of licensure.

AUTH: 50-52-102, 50-52-301, MCA

IMP: 50-52-102, 50-52-103, 50-52-301, 50-52-303, MCA

NEW RULE XXV PERFORMANCE REQUIREMENTS FOR LOCAL REGULATORY AUTHORITIES In addition to the requirements of 50-52-301, MCA, the following performance requirements apply to the local board of health:

(1) for a local board of health to qualify for reimbursement under 50-52-302, MCA, the local regulatory authority shall:

- (a) use inspection forms approved by the department;
- (b) update the department's inspection database quarterly;
- (c) inspect each establishment within its jurisdiction at least once per license year, or as otherwise agreed upon in a cooperative agreement;
- (d) provide copies of program documentation, including inspection reports, plans of correction, and enforcement actions when requested by the department; and

(e) keep all documentation related to an establishment for five years from the date of its creation, unless required to be kept longer by another part of this rule. Plan reviews must be retained for five years after establishment closure.

AUTH: 50-52-102, MCA

IMP: 50-52-102, 50-52-302, MCA

4. The department proposes to repeal the following rules:

37.111.201 DEFINITIONS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.202 INCORPORATION BY REFERENCE

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.205 LAYOUT PLAN REVIEW

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.206 LAYOUT PLAN: WATER SUPPLY REQUIREMENTS

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.207 LAYOUT PLAN: SEWAGE SYSTEM REQUIREMENTS

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.211 LICENSURE

AUTH: 50-52-102, MCA  
IMP: 50-52-102, 50-52-201, 50-52-202, 50-52-203, MCA

37.111.212 INSPECTIONS AND COMPLIANCE REQUIREMENTS

AUTH: 50-52-102, MCA  
IMP: 50-52-102, 50-52-103, 50-52-301, MCA

37.111.215 WATER SUPPLY: ONGOING REQUIREMENTS

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.216 SEWAGE SYSTEM

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.217 SOLID WASTE: STORAGE AND DISPOSAL

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

37.111.218 NOXIOUS PLANT, ANIMAL, DUST AND OTHER PUBLIC  
HEALTH CONTROLS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.220 MISCELLANEOUS LICENSEE REQUIREMENTS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.225 GUEST REGISTRATION

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.226 ANIMALS RUNNING AT LARGE

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.230 SERVICE BUILDINGS AND OTHER SERVICE FACILITIES FOR  
GENERAL SERVICES CAMPGROUNDS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.235 PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH  
AUTHORITIES

AUTH: 50-52-102, 50-52-301, MCA

IMP: 50-52-302, MCA

37.111.501 DEFINITIONS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.504 PRECONSTRUCTION REVIEW

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.505 USE BY NONLICENSEE: LICENSEE RESPONSIBILITY

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.506 PHYSICAL REQUIREMENTS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.515 WATER SUPPLY SYSTEM

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.516 SEWAGE TREATMENT AND DISPOSAL

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.517 SOLID WASTE

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.518 TOILETS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.521 HOUSEKEEPING, MAINTENANCE, AND LAUNDRY

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.522 FOOD SERVICE

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.523 POOLS, SPAS, AND OTHER WATER FEATURES

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.530 SAFETY

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.531 ILLNESS OR INJURY

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA



37.111.532 INSECT, RODENT, AND WEED CONTROL

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.533 NONCOMPLYING PREEXISTING CAMPS AND CORRECTION PLAN

AUTH: 50-52-102, MCA

IMP: 50-52-102, 50-52-103, 50-52-201, 50-52-205, 50-52-206, 50-52-207, 50-52-208, MCA

37.111.534 INSPECTIONS

AUTH: 50-52-102, 50-52-301, 50-52-302, MCA

IMP: 50-52-301, 50-52-302, 50-52-303, MCA

37.111.535 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL HEALTH AUTHORITIES

AUTH: 50-52-302, MCA

IMP: 50-52-302, MCA

37.111.601 DEFINITIONS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.604 LAYOUT PLAN REVIEW

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.605 SHELTER, STRUCTURAL AND MAINTENANCE REQUIREMENTS

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.615 WATER SUPPLY SYSTEM

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.616 SEWAGE TREATMENT AND DISPOSAL

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.617 SOLID WASTE

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.618 FOOD SERVICE

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.621 INSECT, RODENT AND WEED CONTROL

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.622 ABANDONMENT OF WORK CAMP

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

37.111.623 INSPECTIONS

AUTH: 50-52-102, 50-52-301, 50-52-302, MCA

IMP: 50-52-301, 50-52-302, 50-52-303, MCA

37.111.624 MINIMUM PERFORMANCE REQUIREMENTS FOR LOCAL  
REGULATORY AUTHORITIES

AUTH: 50-52-302, MCA

IMP: 50-52-302, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing this rulemaking to update, consolidate, simplify, and make more user friendly the administrative rules governing trailer courts, campgrounds, youth camps, and work camps.

Currently, these establishments are regulated under separate sets of rules that are based upon establishment type. Trailer courts and campgrounds are regulated under ARM Title 37, chapter 111, subchapter 2. These rules have not been significantly updated since 1995. Youth camps are regulated under ARM Title 37, chapter 111, subchapter 5. These rules have not been significantly updated since

1985. Work camps are regulated under ARM Title 37, chapter 111, subchapter 6. These rules have also not been significantly updated since 1985.

The department is proposing to repeal each of these rules and in their place adopt New Rules I through XXV to establish a uniform set of rules to govern trailer courts, campgrounds, work camps, and youth camps.

As part of simplifying and consolidating these rules, the department is also proposing updates to the rules to ensure continued public health and safety and to account for new trends in camping such as glamping and an increase in temporary camping areas associated with festivals. Technical and non-substantive updates are also proposed to make the rules clearer and more user friendly.

Significant additions to the new rules as compared to the current rules include the following:

- A definition for the term "shelter unit" has been added under New Rule I to account for the differing types of temporary structures provided by establishments for camping such as yurts and tipis.
- New Rule IX cross-references existing requirements under which operators of public swimming pools must be licensed and follow the department's administrative rules governing operation of public swimming pools.
- New Rule VI adds the requirement for use of backflow and back siphonage prevention devices where health hazards exist that could lead to the contamination of the establishment's water supply. Devices used under this scenario are required to meet American Society of Sanitary Engineering (ASSE) or Foundation for Cross Connection Control and Hydraulic Research (FCCCHR) standards.
- New Rule XIII addresses requirements for shelter units to take into account the trend of glamping. The rule provides health and safety requirements relating to bedding, furnishings, and food utensils that are typically provided by these types of establishments to campers.
- New Rule XVI addresses the use and storage of flammable and hazardous substances to ensure these substances are maintained and used in a manner that does not jeopardize the health and safety of campers.
- New Rule XVIII relating to special event campgrounds is intended to address the increased use of temporary camping facilities. The rule establishes standards of review for these types of campgrounds to ensure public health and safety.

- New Rule XXIII establishes a variance process and sets forth the criteria for approval. The rule provides for reduced regulatory burden while continuing to ensure public health and safety.

#### Fiscal Impact

There is no fiscal impact anticipated due to this rulemaking.

New Rules I through XXV are intended to be effective upon the day after the date of publication of the adoption notice.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., July 22, 2022.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULE I and the amendment of ARM ) PROPOSED ADOPTION AND  
37.111.101, 37.111.102, 37.111.106, ) AMENDMENT  
37.111.107, 37.111.110, 37.111.111, )  
37.111.112, 37.111.113, 37.111.114, )  
37.111.116, 37.111.117, 37.111.121, )  
37.111.122, and 37.111.124 )  
pertaining to Public Sleeping )  
Accommodations )

TO: All Concerned Persons

1. On July 18, 2022, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption and amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81757790525?pwd=ZW16M29PVEVnWHA0dmxRaFdWUHINZz09>, Meeting ID: 817 5779 0525, Password: 514356; or

(b) Dial by Telephone: +1 646 558 8656, Meeting ID: 817 5779 0525, Password: 514356. Find your local number: <https://mt-gov.zoom.us/u/kZwekHAn>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on July 5, 2022, to advise us of the nature of the accommodation that you need. Please contact Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-6863; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rule as proposed to be adopted provides as follows:

NEW RULE I VARIANCE (1) The local regulatory authority may grant a variance to a requirement of this subchapter if, in the opinion of the local regulatory authority, a health hazard or nuisance will not result from the variance.

(2) To apply for a variance, the applicant must submit the following information:

(a) a statement as to why the applicant is unable to comply with the rule from which the variance is requested;

(b) the nature and duration of the variance requested;

(c) a statement of how the intent of the rule will be met and the reasons why the public health or safety would not be jeopardized if the variance is granted; and

(d) other information deemed necessary by the local regulatory authority to establish that a health hazard or nuisance will not result from granting the variance.

(3) The local regulatory authority must retain the variance application and decision in the establishment file as long as the variance is applicable.

(4) Prior to issuing a variance, the local regulatory authority will contact, notify, and consult with the department about any similar variances to help ensure uniform application of the law.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.111.101 DEFINITIONS In addition to those definitions contained in 50-51-102, MCA, the following definitions apply to this subchapter:

(1) remains the same.

(2) "Building authority" means the ~~Building Codes Bureau, Montana~~ Department of Labor and Industry Building Codes Program, or a local government building inspector enforcing a local building code enforcement program certified by the Department of Labor and Industry its local authorized agent.

(3) ~~"Department" means the Department of Public Health and Human Services.~~

(4)(3) "Establishment" has the meaning provided for under 50-51-102, MCA. ~~means a facility providing sleeping accommodations to the public, such as a hotel, motel, tourist home, or rooming house, including boarding house, hostel, or vacation rental.~~ For the purpose of this subchapter, establishment does not include a "bed and breakfast," "guest ranch," or "outfitting and guide facility."

(5) through (8) remain the same but are renumbered (4) through (7).

(9)(8) "Local ~~health~~ regulatory authority" means a the local board of health, local health officer, local sanitarian, or sanitarian-in-training other authorized representative of the local government having jurisdiction.

(10) and (11) remain the same but are renumbered (9) and (10).

(12)(11) "Shock disinfection" means an application of a chemical disinfectant to a water supply in order to kill all microorganisms. The chemical disinfectant is usually chlorine at a concentration much stronger than allowed in potable water, or another method approved by the local ~~health~~ regulatory authority.

(13) remains the same but is renumbered (12).

(14)(13) "Wastewater treatment system" means a ~~sewage treatment and disposal system~~ system that receives wastewater for purposes of treatment, storage, or disposal. The term includes public wastewater conveyance systems, wastewater systems, and all wastewater disposal methods described in Department of Environmental Quality Circulars DEQ-2 and DEQ-4.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.102 REVIEW OF PLANS AND SPECIFICATIONS (1) Plans and specifications must be submitted to the local ~~health~~ regulatory authority for review and approval before any new license is issued.

(2) Local ~~health~~ regulatory authority approval is required before any construction, remodeling, or conversion for a new or existing establishment begins.

(3) The local ~~health~~ regulatory authority must review the plans and specifications and respond to the applicant within 30 days with a written approval, disapproval, or request for additional information.

(4) If the establishment was previously licensed by the department and no structural modification will be involved, the local ~~health~~ regulatory authority may waive the requirement for the submission of plans and specifications.

(5) If the local ~~health~~ regulatory authority is unable to perform the review, plans and specifications must be submitted to the department for review and approval.

(6) Plans and specifications must include the following:

(a) and (b) remain the same.

(c) location and detail of laundry facilities, including a description of equipment; and floor and wall finish material;

(d) through (i) remain the same.

(j) documentation of approval from DEQ and any applicable local ~~health~~ regulatory authority permit and inspection report, if the establishment will be served by a public wastewater treatment system;

(k) documentation of approval from the local ~~health~~ regulatory authority, if the establishment will be served by a nonpublic wastewater treatment system;

(l) and (m) remain the same.

(n) any other pertinent information requested by the department or local ~~health~~ regulatory authority.

(7) Construction must be in accordance with the plans and specifications as approved. Any changes from the approved plans must be reviewed and approved, in writing, by the department or local ~~health~~ regulatory authority.

(8) Approval is valid for two years. If construction, remodeling, or conversion is not completed within two years, the department or local ~~health~~ regulatory authority may require plans and specifications to be resubmitted for review.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.106 LICENSURE, RENEWAL, AND INSPECTION (1) The local ~~health~~ regulatory authority must make a pre-licensing inspection to determine compliance with the requirements of this subchapter before a license is issued by the department or validated by the local health officer.

(2) The local ~~health~~ regulatory authority must inspect each licensed establishment within the jurisdiction of the local board of health to determine compliance with this subchapter at least once each calendar year, unless that schedule is modified by signed agreement with the department.

(3) The local ~~health~~ regulatory authority, after proper identification, must be provided access to the establishment at all reasonable hours for the purpose of conducting inspections and investigations as required under this subchapter.

(4) through (7) remain the same.

(8) The local ~~health~~ regulatory authority must retain all documentation of enforcement of this subchapter including, ~~but not limited to,~~ inspection reports, consumer complaints, illness investigations, plans of correction, and enforcement actions for at least five years.

(9) through (11) remain the same.

AUTH: 50-51-103, 50-51-303, MCA

IMP: 50-51-103, 50-51-301, 50-51-303, MCA

37.111.107 PHYSICAL REQUIREMENTS (1) remains the same.

(2) Adequate and convenient janitorial facilities must be provided, including a janitor sink and storage area for equipment and chemicals. A ~~tourist home is not required to have a janitor sink~~ is not required for:

(a) tourist homes;

(b) a private home or condominium that is occupied by an owner or manager and that is rented, leased, or furnished in its entirety or in part to transient guests on a daily or weekly basis; and

(c) other establishments as approved by the local regulatory authority.

(3) through (8) remain the same.

(9) The local ~~health~~ regulatory authority may require licensed pesticide services for persistent pest infestations.

(10) remains the same.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.110 WATER SUPPLY SYSTEM GENERAL REQUIREMENTS

(1) and (2) remain the same.

(3) A nonpublic water supply system must meet the requirements of ~~Food and Consumer Safety (FCS) Circular 1-2012~~ Nonpublic Water Supply Circular FCS 1-2016 when:

(a) and (b) remain the same.

(c) the local ~~health~~ regulatory authority determines compliance with ~~FCS Circular 1-2012~~ Nonpublic Water Supply Circular FCS 1-2016 is necessary to meet the requirements of this subchapter.

(4) A non-potable water source may be used only if:

(a) through (c) remain the same.

(5) The department adopts and incorporates by reference ~~FCS Circular 1-2012~~ Nonpublic Water Supply Circular FCS 1-2016 in effect ~~May 11, 2012~~ November 5, 2019, which contains potable water construction and maintenance standards for nonpublic water supplies serving licensed establishments. A copy of ~~FCS Circular 1-2012~~ Nonpublic Water Supply Circular FCS 1-2016 may be obtained from the Department of Public Health and Human Services, Food and Consumer



Safety Section, P.O. Box 202951, Helena, Montana 59620-2951. The ~~FCS Circular 4-2012~~ Nonpublic Water Supply Circular FCS 1-2016 is also available on the department's web site at [www.fcsmt.gov](http://www.fcsmt.gov).

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.111 NONPUBLIC WATER SUPPLY SAMPLING AND TEST REPORTS (1) An establishment using a nonpublic water supply system must have water samples analyzed for coliform bacteria as follows:

(a) Coliform sampling must be done before licensing and in at least ~~in~~ two ~~separate~~ different months of each calendar year that the establishment operates.

(b) The sampling schedule must include collection when the water source is most likely to be contaminated, such as during April through June and September through October, in the high ground water season, or as directed by the local ~~health~~ health regulatory authority.

(c) The local ~~health~~ health regulatory authority may require the establishment to sample monthly, in the months the establishment operates, or if an inspection, sampling results, or an event indicates the water source is vulnerable to contamination.

(d) The local ~~health~~ health regulatory authority may return the sampling frequency to two in a calendar year if an on-site sanitary inspection of the water source and other pertinent information shows the water source is no longer vulnerable to contamination.

(2) through (4) remain the same.

(5) The establishment must ensure water test results are transmitted to the local ~~health~~ health regulatory authority from the laboratory in a format acceptable to the local ~~health~~ health regulatory authority within five working days, except as required in ARM 37.111.112(1)(c) and (3)(d).

(6) The establishment must keep test results available for inspection by the local ~~health~~ health regulatory authority for at least five years.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.112 NONPUBLIC WATER SUPPLY CONTAMINATED SAMPLES

(1) If coliform bacteria is detected in a nonpublic water supply routine sample, the establishment must:

(a) collect at least four more repeat samples within 24 hours of notice at the following system points:

(i) through (iv) remain the same.

(v) as directed by the local ~~health~~ health regulatory authority.

(b) remains the same.

(c) notify the local ~~health~~ health regulatory authority within 48 hours of receiving each test results.

(2) If coliform is detected in a repeat sample, the establishment must:

(a) remains the same.

(b) notify customers and staff by placing an advisory sign approved by the local ~~health~~ health regulatory authority at each point of use, or as directed by the local ~~health~~ health regulatory authority.

(3) If fecal coliform or E. coli is detected in a routine sample or repeat sample, the establishment must:

(a) through (c) remain the same.

(d) notify the local ~~health~~ health regulatory authority within 24 hours of receiving test results.

(4) If an establishment fails to take the four repeat samples or the five routine samples, following the detection of coliform, or the laboratory fails to test for fecal coliform or E. coli in coliform positive samples, the establishment must follow corrective actions as specified in (3).

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.113 WATER SUPPLY CORRECTIVE ACTIONS (1) An establishment must take appropriate corrective action, which may include shock disinfection, replacement, or repair of the water supply system, within a period specified by the local ~~health~~ health regulatory authority when:

(a) and (b) remain the same.

(c) the local ~~health~~ health regulatory authority reports to an establishment that the establishment's water supply system is vulnerable to contamination based on a site visit;

(d) through (2) remain the same.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.114 WATER SUPPLY RESTRICTED-USE ORDER (1) The local ~~health~~ health regulatory authority shall issue a restricted-use order to an establishment when:

(a) through (e) remain the same.

(f) a confirmed disease outbreak is associated ~~to~~ with the water source by investigation.

(2) An establishment that is subject to a restricted-use order must provide and use a temporary source of potable water as described in (3) for ~~customer~~ guest and staff drinking, food and drink preparation and service, ice, dishwashing, food contact surface cleaning, and hand washing, or discontinue operations.

(3) With approval from the local ~~health~~ health regulatory authority, an establishment may provide potable water on a temporary basis using one or more of the following:

(a) through (c) remain the same.

(d) if the water is fecal or E. coli contaminated, water that has been boiled for at least one minute, and stored and served from a clean, sanitized, and covered container; or

(e) other source approved by the local ~~health~~ health regulatory authority.

(4) If the local ~~health~~ health regulatory authority determines that boiling water will not provide adequate potable water, it may require an establishment to use another approved method for supplying water.

(5) An establishment subject to a restricted-use order must notify ~~customers~~ guests and staff of the restricted-use order by placing a sign at each point of use, or as otherwise directed by the local ~~health~~ health regulatory authority.

(6) remains the same.

(7) An establishment subject to a restricted-use order may wash, rinse, and sanitize dishes, utensils, and equipment using the affected water system if using an approved chemical disinfectant or a commercial dish machine that reaches 180°F (82°C) in the final rinse, or as directed by the local ~~health~~ health regulatory authority.

(8) A restricted-use order may be removed by the local ~~health~~ health regulatory authority after:

(a) and (b) remain the same.

(c) the establishment flushes, cleans, and sanitizes food and beverage equipment connected to the water supply, such as, ~~but not limited to~~, post-mix beverage machines, spray misters, coffee makers, tea urns, ice machines, glass washers, and dishwashers in accordance with manufacturer's instructions.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.116 WASTEWATER TREATMENT SYSTEM (1) through (4) remain the same.

(5) Extension, alteration, replacement, or repair of any wastewater treatment system must be done in accordance with all applicable state and local regulations.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.117 SOLID WASTE (1) remains the same.

(2) Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility or at another frequency approved by the local ~~health~~ health regulatory authority.

(3) through (5) remain the same.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.121 LAUNDRY FACILITIES (1) through (3) remain the same.

(4) If the ~~handsink~~ hand sink is used for soaking laundry, it must be accessible for handwashing when needed.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.122 GUEST ROOM CLEANING AND MAINTENANCE (1) through (8) remain the same.

(9) A designated janitor sink must be used for washing and rinsing of mops, brooms, brushes, and other cleaning devices. Tourist homes and vacation rentals may use an alternative as approved by the local ~~health~~ regulatory authority.

(10) through (16) remain the same.

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

37.111.124 FOOD SERVICE REQUIREMENTS (1) ~~Where a food service is operated as an integral part of an establishment, compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments is required.~~

~~(a) If the food service is available only to overnight registered guests of the establishment, licensure as a food service establishment is not required. An establishment preparing or serving food that meets the definition of a "retail food establishment" under 50-50-102, MCA, must obtain a separate retail food license. An establishment licensed as a public accommodation is exempt from the requirement to obtain a retail food license if it serves food only to registered guests and day visitors pursuant to 50-50-102(21)(c)(xii), MCA.~~

AUTH: 50-51-103, MCA

IMP: 50-51-103, MCA

## 5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing rule changes to ARM Title 37, chapter 111, subchapter 1, related to public sleeping accommodations. These rules govern licensing and operation of hotels, motels, tourist homes, rooming houses, and boarding houses.

The department is proposing revisions to the rules to update terminology and revise definitions for consistency with rule changes being proposed to trailer court, campground, youth camp, and work camp rules in MAR Notice No. 37-975. The proposed revisions are necessary to ensure consistency between the two sets of rules and to improve regulatory clarity.

The department is also proposing rule revisions designed to reduce regulatory burdens for public sleeping accommodation establishments. New Rule I is being proposed to establish a variance process and to set forth criteria for approval of variances in a manner that continues to ensure public health and safety. The department is also proposing to revise ARM 37.111.107 in response to stakeholder feedback indicating the rule's requirement for maintenance of a janitor sink poses a significant burden to smaller public sleeping accommodation establishments. The proposed rule amendment exempts private residences occupied by an owner or manager that provide public sleeping accommodations on a daily or weekly basis from the requirement to maintain a janitor sink.

### Fiscal Impact

There is no fiscal impact anticipated due to this rulemaking.

The proposed rule changes are intended to be effective upon the day after the date of publication of the adoption notice.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., July 22, 2022.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rule I, the amendment of ARM	)	PROPOSED ADOPTION,
37.40.801, 37.40.805, 37.40.806,	)	AMENDMENT, AND REPEAL
37.40.808, 37.40.815, 37.40.816,	)	
37.40.825, and 37.40.830, and the	)	
repeal of 37.40.807 pertaining to	)	
Medicaid hospice fee reimbursement	)	
and care program	)	

TO: All Concerned Persons

1. On July 18, 2022, at 1:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption, amendment, and repeal of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81391828814?pwd=ZFh0WSStTaDI0RFNLCmZFSHA1emFlZDZ09>, Meeting ID: 813 9182 8814; Password: 412899 or

(b) Dial by Telephone: +1 646 558 8656; Meeting ID: 813 9182 8814; Password: 412899. Find your local number: <https://mt-gov.zoom.us/j/81391828814?pwd=ZFh0WSStTaDI0RFNLCmZFSHA1emFlZDZ09>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on July 5, 2022, to advise us of the nature of the accommodation that you need. Please contact Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rule as proposed to be adopted provides as follows:

NEW RULE I ADOPTION AND INCORPORATION BY REFERENCE

(1) For purposes of this subchapter, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations (CFR) that are in effect as of October 1, 2021:

(a) 42 CFR 418.3, which sets forth definitions of terms.

(b) 42 CFR 418.20 through 418.30, which set forth Medicare hospice care eligibility, election, and duration of benefits.

(c) 42 CFR 418.52 through 418.116, which set forth Medicare conditions of participation for hospice programs.

(d) 42 CFR 418.200 through 418.205, which set forth Medicare coverage of

hospice services.

(e) 42 CFR 418.301 through 418.312, which set forth Medicare hospice care payment procedures.

(2) Copies of these sections of the CFR may be obtained from the Department of Public Health and Human Services, Senior & Long Term Care Division, 1100 N. Last Chance Gulch, P.O. Box 4210, Helena, MT 59604-4210 or by visiting <https://www.ecfr.gov/>.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.40.801 HOSPICE, DEFINITIONS (1) remains the same.

(2) Except for the definition of "physician," the definitions of terms defined under department adopts and incorporates by reference 42 CFR 418.3 apply for purposes of this subchapter, ~~as amended through August 22, 2014, which sets forth definitions of terms related to services covered as hospice care. Copies of 42 CFR 418.3, as amended through August 22, 2014, are available from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(3) remains the same.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.805 HOSPICE, CONDITIONS OF PARTICIPATION (1) The hospice must be licensed under state law and must meet Medicare's conditions of participation for hospice programs and have a valid provider agreement with Medicare as conditions of enrollment in Medicaid. Medicare conditions of participation for hospice programs are set forth under 42 CFR 418.52 through 418.116.

(2) ~~The department adopts and incorporates by reference the following sections of 42 CFR as amended June 5, 2008:~~

~~(a) 418.52 through 418.74;~~

~~(b) 418.78;~~

~~(c) 418.102 through 418.106; and~~

~~(d) 418.110 through 418.116.~~

(3) ~~The department adopts and incorporates by reference the following sections of 42 CFR as amended August 6, 2009:~~

~~(a) 418.76;~~

~~(b) 418.100; and~~

~~(c) 418.108.~~

(4) ~~These CFRs set forth Medicare's conditions of participation for hospice providers. A copy of the sections of CFR listed in (2) and (3) may be obtained from the Department of Public Health and Human Services, Health Resources Division,~~

1400 Broadway, P.O. Box 202951, Helena, MT 59320-2951.

~~(5)~~(2) The above requirements are in addition to those contained in ARM 37.82.102 and, 37.85.401, 37.85.402, 37.85.406, 37.85.407, 37.85.410, and 37.85.414.

~~(6)~~(3) The hospice must submit a physician listing with their provider application and update changes in the listing of the physicians ~~which~~ who are hospice employees, including physician volunteers.

~~(7)~~(4) The designated hospice must notify the department when the designated attending physician of a ~~recipient~~ beneficiary in their care is not a hospice employee.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.806 HOSPICE, COVERED SERVICES (1) To be covered, hospice services must meet the following requirements:

(a) remains the same.

(b) the ~~individual~~ beneficiary must elect hospice care in accordance with ARM 37.40.815;

(c) remains the same.

(d) a certification that the ~~individual~~ beneficiary is terminally ill must be completed as set forth in ARM 37.40.808.

(2) For covered hospice services, Medicaid will generally pay for the services covered by Medicare. Medicare coverage of hospice services is described under 42 CFR 418.200 through 418.205.

(a) Physicians' services is a covered hospice service and must be performed by a doctor of medicine or osteopathy.

(b) remains the same.

~~(3) The department adopts and incorporates by reference the following section of 42 CFR as amended August 4, 2011:~~

~~(a) 418.202 except for those provisions which apply to physicians services.~~

~~(4) The department adopts and incorporates by reference the following sections of 42 CFR as amended August 6, 2009:~~

~~(a) 418.200; and~~

~~(b) 418.204.~~

~~(5) The department adopts and incorporates by reference the following section of 42 CFR as amended November 5, 2004:~~

~~(a) 418.205.~~

~~(6) The incorporated material sets forth requirements for Medicare coverage of hospice services. A copy of the sections of CFR listed in (3), (4), and (5) may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59320-2951.~~

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.808 HOSPICE, CERTIFICATION OF TERMINAL ILLNESS (1) In



order to be eligible to elect hospice care under Medicaid, an individual a beneficiary must be certified as being terminally ill in accordance with Medicare certification requirements under 42 CFR 418.22.

~~(2) The department adopts and incorporates by reference 42 CFR 418.22, as amended August 4, 2011, which sets forth Medicare conditions for certification of terminal illness to qualify an individual to be eligible to elect hospice care. Copies of 42 CFR 418.22 are available from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

### 37.40.815 HOSPICE, ELECTION AND WAIVER OF OTHER BENEFITS

(1) ~~An individual~~ A beneficiary eligible for hospice care or ~~his~~ their representative must file an election statement with a particular hospice in order to receive ~~that~~ such care. The department will follow Medicare regulations and guidelines in administering this provision, including 42 CFR 418.20 through 418.30.

~~(2) The department adopts and incorporates by reference the following sections of 42 CFR as amended November 22, 2005:~~

~~(a) 418.21 which sets forth the duration of hospice care coverage and election periods; and~~

~~(b) 418.25 which sets forth the requirements for admission to hospice.~~

~~(3) The department adopts and incorporates by reference the following section of 42 CFR as amended June 5, 2008:~~

~~(a) 418.20 which sets forth eligibility requirements.~~

~~(4) The department adopts and incorporates by reference the following sections of 42 CFR as amended August 6, 2019:~~

~~(a) 418.24(a) through 418.24(f) which sets forth the requirements for individual election of hospice care; and~~

~~(b) 418.26 which sets forth the requirements for discharge from hospice care.~~

~~(5) A copy of the sections of CFR listed in (2) through (4) may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

~~(6)(2)~~ An individual A beneficiary waives all rights to Medicaid payments for the duration of the election of hospice care for the following services:

(a) Hospice care provided by a hospice other than the hospice designated by the individual beneficiary (unless provided under arrangements made by the designated hospice).

(b) through (b)(ii) remain the same.

(iii) services provided by the individual's beneficiary's attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services.

~~(7)(3)~~ The hospice chosen by the eligible individual beneficiary, or their representative, must file the original Notice of Election (NOE) or a copy, with the department within five calendar days of the start of Medicaid Hospice Services. NOEs must be sent to the Senior & Long Term Care Division, 411 N. Sanders 1100

N. Last Chance Gulch, P.O. Box 4210, Helena, MT 59604-4210. The department may waive the consequences of failure to submit a ~~timely-filed~~ timely filed NOE. A hospice must fully document and furnish any requested documentation to the department for a determination of exception.

~~(8)(4)~~ (4) When the hospice election is ended due to discharge, the hospice must file a Notice of Termination of Election with the department within five calendar days after the effective date of the discharge, unless it has already filed a final claim for that beneficiary. Notice of Terminations must be sent to the Senior & Long Term Care Division, ~~111 N. Sanders~~ 1100 N. Last Chance Gulch, P.O. Box 4210, Helena MT 59604-4210.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.816 HOSPICE, REVOCATION OF ELECTION (1) ~~An individual A~~ beneficiary or their representative may revoke the individual beneficiary's election of hospice care at any time during an election period. The department will follow Medicare regulations and guidelines in administering this provision, including 42 CFR 418.28.

~~(2) The department adopts and incorporates by reference 42 CFR 418.28, as amended August 6, 2019, which sets forth the Medicare requirements for revoking the election of hospice care. Copies of 42 CFR 418.28 are available from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

~~(3)(2)~~ (2) When the hospice election is ended due to revocation, the hospice must file a Notice of Revocation of Election with the department within five calendar days after the effective date of the revocation, unless it has already filed a final claim for that beneficiary. A Notice of Revocation must be sent to the Senior & Long Term Care Division, ~~111 N. Sanders~~ 1100 N. Last Chance Gulch, P.O. Box 4210, Helena, MT 59604-4210.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.825 HOSPICE, CHANGE OF HOSPICE (1) ~~An individual A~~ beneficiary or their representative may change once in each election period the designation of the particular hospice from which hospice care will be received. The department will follow Medicare regulations and guidelines in administering this provision, including 42 CFR 418.30.

~~(2) The department adopts and incorporates by reference 42 CFR 418.30, as amended June 5, 2008, which sets forth the Medicare requirements that must be met when another hospice is chosen in an election period. Copies of 42 CFR 418.30 are available from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.830 HOSPICE, REIMBURSEMENT (1) Medicaid payment for covered hospice care will be made in accordance with the specific categories of covered hospice care and the payment amounts and procedures established by Medicare under 42 CFR 418.301 through 418.312. The specific categories of covered hospice care include:

(a) through (e) remain the same.

(2) Hospice Routine Home Care (RHC) level of care days will be paid at one of two RHC rates. RHC per-diem payment rates for the RHC level of care will be paid depending on the timing of the day within the patient's episode of care. Days 1 through 60 will be paid at the RHC "High" rate while all other days "61 plus" will be paid at the RHC "Low" rate.

~~(3) The department adopts and incorporates by reference 42 CFR 418.302, as amended August 6, 2015 and effective October 1, 2015 and 42 CFR 418.306, as amended August 6, 2015 and effective October 1, 2015, which sets forth the Medicare payment procedures. Copies of 42 CFR 418.302 and 42 CFR 418.306 are available at the federal web site: <http://cms.hhs.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html>.~~

(4)(3) The ~~board and room~~ room and board rate to be paid a hospice for a Medicaid ~~recipient~~ beneficiary who resides in a nursing facility will be the Medicaid rate established by the department in ARM 37.40.307 for the individual facility minus the amount the ~~recipient~~ beneficiary pays toward ~~his~~ their own cost of care. Payment for ~~board and room~~ room and board will be made to the hospice and, in turn, the hospice will reimburse the nursing facility. General inpatient care or hospice respite care in a nursing facility will not be reimbursed directly by the Medicaid program when a Medicaid recipient elects the hospice benefit payment. Under such circumstances payment will be made to the hospice in accordance with this rule.

(a) remains the same.

~~(5)~~(4) The following services performed by hospice physicians are included in the rates described in (1)(a) through ~~(3)~~(1)(d):

(a) and (b) remain the same.

~~(6)~~(5) For services not described in ~~(5)~~(4), Medicaid will pay the hospice for those physician services furnished by hospice employees or under arrangements with the hospice in accordance with ARM 37.86.101, 37.86.104, and 37.86.105. Reimbursement for these physician services is included in the amount subject to the hospice limit described in ~~(7)~~(6). Services furnished voluntarily by physicians are not reimbursable.

(7) and (8) remain the same but are renumbered (6) and (7).

~~(9) The department adopts and incorporates by reference 42 CFR 418.309, as amended August 6, 2018, which sets forth Medicare's methodology for calculating the hospice cap amount. Copies of 42 CFR 418.309 are available at the federal web site: <http://cms.hhs.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/index.html>.~~

(10) and (11) remain the same but are renumbered (8) and (9).

~~(12)~~(10) The department adopts and incorporates by reference the Hospice Rates FFY22 fee schedule, hospice fee schedules are effective October 1, 2020

2021. Copies of the department's current fee schedules are posted at <http://medicaidprovider.mt.gov> and may be obtained from the Department of Public Health and Human Services, Senior & Long Term Care Division, ~~Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59602-2951~~ 1100 N. Last Chance Gulch, P.O. Box 4210, Helena, MT 59604-4210.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

5. The department proposes to repeal the following rule:

37.40.807 HOSPICE CONDITION OF PARTICIPATION:  
INTERDISCIPLINARY GROUP, CARE PLANNING, AND COORDINATION OF  
SERVICES

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

#### 6. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to adopt New Rule I, amend ARM 37.40.801, 37.40.805, 37.40.806, 37.40.808, 37.40.815, 37.40.816, 37.40.825, and 37.40.830, and repeal ARM 37.40.807 pertaining to the Medicaid hospice care program.

#### NEW RULE I

Currently, nine different hospice rules adopt and incorporate by reference various sections of the Code of Federal Regulations (CFR). New Rule I is being proposed to consolidate these adopted CFR references into a single rule in order to increase clarity and readability of the rules for stakeholders. As part of consolidating the CFR references into a single rule, the department is also proposing to update the CFR references to refer to the most current version of each CFR. Updating these references is necessary to ensure the hospice program rules adopt by reference the current federal regulations applicable to the program.

ARM 37.40.801, 37.40.805, 37.40.806, 37.40.808, 37.40.815, 37.40.816, 37.40.825,  
and 37.40.830

The department is proposing to amend each of these rules to align with the proposed adoption of New Rule I. Specifically, the department is proposing to remove language from each rule that adopts and incorporates by reference CFR sections that are now referenced in New Rule I.

The department is also proposing to amend ARM 37.40.830 to update the Medicaid hospice reimbursement fee schedule to reference the most current fee schedule in accordance with changes in federal hospice reimbursement rates set by the Centers for Medicare & Medicaid Services (CMS) in the Federal Register, effective October 1, 2021. This proposed rule amendment is necessary to pay Medicaid providers

according to the current Medicare fee schedule, effective October 1, 2021. In order to pay Medicaid hospice providers according to the Medicare fee schedule and rate methodology, the rule must be updated to reference the most current Medicare hospice fee schedule.

Failure to update these rules will result in hospice reimbursement rates no longer staying current with federal changes and providers not having clarity on which federal regulations are applicable to Medicaid hospice services and reimbursement.

#### ARM 37.40.807

This current rule adopts and incorporates by reference 42 CFR 418.56 regarding hospice interdisciplinary groups, care planning, and coordination of services. Because the department proposes to consolidate all of the adoptions and incorporations by reference into one rule, the department is proposing to repeal this rule because it is duplicative of New Rule I.

#### Fiscal Impact

The proposed amendment to ARM 37.40.830 will have a fiscal impact on the hospice program. There are 27 Montana Medicaid hospice providers. In State Fiscal Year (SFY) 2020, approximately 473 Medicaid beneficiaries received the hospice benefit.

Much of the Medicaid hospice program's budget provides reimbursement for hospice services provided in nursing facilities in the form of room and board for inpatient nursing facility hospice.

The proposed fee schedule implements an approximate, aggregate reimbursement rate increase of 2%, as computed and published by CMS, which will apply to providers in all 56 counties. The proposed rate increase is estimated to have a fiscal impact of \$72,899 in combined state and federal funds as compared to FY 2021.

Montana hospice rates are affected by a wage index applied geographically by county. The 2022 wage index has increased for Carbon and Yellowstone Counties by approximately 2.7% percent. Effective October 1, 2021, Stillwater County is now calculated using an urban index of 0.9536 which is an increase from the SFY 2021 urban index rate of 0.8569. Cascade County decreased by 0.32% percent and the Missoula County wage index decreased by approximately 0.64%. The remainder of the Montana counties are subject to the rural index rate which increased by approximately 4.98%.

Additionally, two hospice providers will see a hospice reimbursement rate decrease of 2% for failure to comply with federal quality data submission requirements during the prior fiscal year. A copy of the proposed hospice fee schedule can be found at <https://medicaidprovider.mt.gov/proposedfs>.

The increase in hospice rates will be retroactive to October 1, 2021. Any decreases in hospice rates will not be applied retroactively and would be effective upon adoption of the proposed rule amendments.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kassie Thompson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., July 22, 2022.

8. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.2.613, 42.2.614, 42.2.615,	)	PROPOSED AMENDMENT AND
42.2.616, 42.39.102, 42.39.112,	)	REPEAL
42.39.115, 42.39.118, 42.39.123,	)	
42.39.203, 42.39.413, 42.39.502,	)	
42.39.505 and the repeal of ARM	)	
42.39.109, 42.39.110, and 42.39.120	)	
pertaining to Montana Marijuana	)	
Regulation and Taxation Act post-	)	
legislative rules revisions and	)	
contested case rules updates	)	

TO: All Concerned Persons

1. On July 18, 2022, at 1:00 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on July 1, 2022. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or [todd.olson@mt.gov](mailto:todd.olson@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY. Since July 2, 2021, the department has administered the Marijuana Regulation and Taxation Act, 16-12-101, et. seq., MCA (Act) and the former Medical Marijuana Act, 50-46-301, MCA, et. seq (MMP), which was repealed effective January 1, 2022 and replaced in totality by the Act.

Most amendments are necessary as general "housekeeping" - which amend or remove residual references to Title 50, Montana Code Annotated or remove outdated rule sections, like ARM 42.12.123(12). Other proposed amendments, such as those in ARM 42.2.613, 42.2.614, 42.2.615, and 42.2.616, are necessary to add "marijuana matters" to the department's existing dispute resolution processes, some of which began in 2021 when the department promulgated rules under MAR Notice No. 42-1031. Other amendments in ARM 42.2.613, 42.2.614, 42.2.615, and 42.2.616 reflect Administrative Law Judge (ALJ) references instead of hearings examiners, fixing Office of Dispute Resolution (ODR) internal referencing, and removal of an outdated procedural flowchart.

The department also proposes amendments in ARM 42.39.115(6) and (7), and in ARM 42.39.502(5), which the department believes are necessary to resolve or complete certain procedural aspects of the rules.

The department proposes to improve agency and stakeholder understanding of general rule verbiage such as amending the catchphrase (i.e., title) for ARM 42.39.403 because the rule is broader than just marijuana transporter licenses. These amendments do not impose additional requirements but clarify the subject matter better than the existing rule text.

The department proposes to update the authorizing and implementing statutes for the rules, where applicable, which is required under 2-4-305, MCA.

Lastly, the department's repeals are proposed because the administrative rules' statutory authority expired as of January 1, 2022, and the rules are now obsolete. The department is analyzing the necessity for replacement rules and will promulgate its proposals, if necessary, independent from this rulemaking.

While this general statement of reasonable necessity covers the basis for the proposed rule amendments and repeals, it is supplemented below to explain rule-specific proposals.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.2.613 DEFINITIONS The following definitions apply to rules found in this subchapter.

(1) "Administrative Law Judge" means, within the context of the department's ODR, the individual who:

(a) adjudicates or mediates a dispute between a person or other entity and the department after the dispute has been proceeded beyond informal review; and

(b) has general authority to regulate the course of appeals.

(1) through (7) remain the same but are renumbered (2) through (8).

~~(8) (9) "Hearing" means a recorded, contested proceeding before a hearing examiner or an ALJ, acting as a finder of fact, during which the parties may offer testimony under oath with an opportunity to question the witnesses, offer exhibits, make arguments, and provide evidence.~~

~~(9) "Hearing examiner" means, within the context of the department's ODR, the individual who:~~

~~(a) adjudicates or mediates a dispute between a person or other entity and the department after the dispute has proceeded beyond informal review; and~~

~~(b) has general authority to regulate the course of appeals.~~

(10) "Initial conference" means a conference conducted by the ODR with the parties involved to consider the issues in dispute and determine:

(a) through (c) remain the same.

(d) whether the taxpayer will elect to bypass the ODR.

(11) and (12) remain the same.

(13) "Marijuana matters" means disputes arising from the department's administration of the Montana Marijuana Regulation and Taxation Act (Title 16, chapter 12, MCA, and ~~Title 50, chapter 46, MCA~~ ARM Title 42, chapter 39). Marijuana matters are contested cases conducted pursuant to the Montana



Administrative Procedure Act, Title 2, chapter 4, part 6, MCA. Marijuana matters are not subject to the dispute resolution procedures established by 15-1-211, MCA. (14) through (20) remain the same.

AUTH: 15-1-201, 15-1-211, 16-12-112 ~~50-46-344~~, MCA

IMP: 15-1-211, 16-12-109, 16-12-112 ~~50-46-344~~, MCA

42.2.614 PURPOSE (1) and (2) remain the same.

(3) The department's dispute review procedure applies to all matters administered by the department except those exempted by 15-1-211, MCA, or other applicable law. Liquor matters and marijuana matters are handled pursuant to the Montana Administrative Procedure Act and are not subject to the department's dispute review procedure.

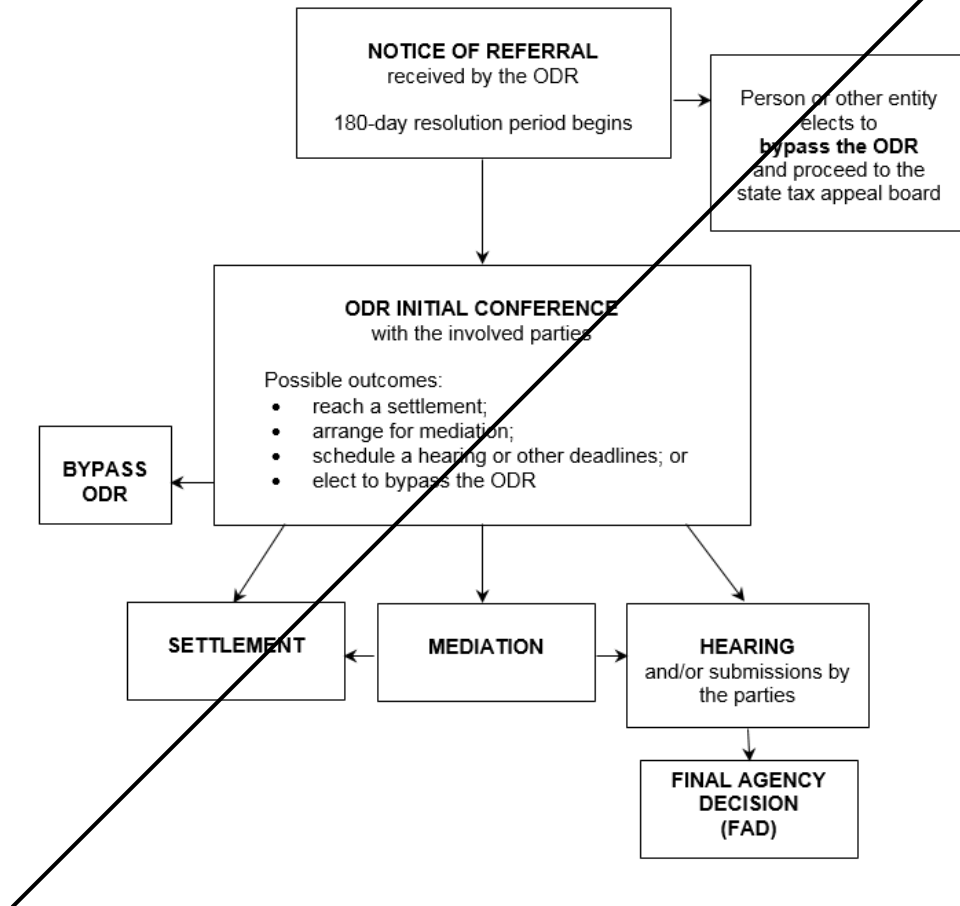
(4) ~~The flowchart in (6) provides the dispute resolution procedure.~~ A final agency decision must be issued within 180 days from the date the notice of referral to the ODR is received as provided for in 15-1-211, MCA, unless extended by mutual consent of the parties.

(5) remains the same.

~~(6) The following flowchart shows the dispute resolution process:~~

[the following flowchart is proposed for removal]

### DISPUTE RESOLUTION FLOWCHART



AUTH: 15-1-201, 15-1-211, 16-12-112, MCA

IMP: 15-1-211, 16-12-109, 16-12-112, 69-8-414, MCA

42.2.615 REFERRALS TO THE ODR (1) remains the same.

(2) Except for liquor matters and marijuana matters, as defined in ARM 42.2.613, A a person or other entity who has filed an appeal with ~~the~~ ODR may, within 30 days of filing the appeal, elect to bypass review by that office and file an appeal with the state tax appeal board. If the person or other entity elects to bypass review by ~~the~~ ODR, the determination originally issued by the division will be deemed the final department decision.

(3) remains the same.

AUTH: 15-1-201, 15-1-211, 16-12-112, MCA

IMP: 15-1-211, 16-12-109, 16-12-112, MCA

42.2.616 FORMALITY OF PROCEDURES (1) remains the same.

(2) The ~~hearing examiner~~ ALJ, in consultation with the parties, will evaluate the circumstances and complexity of each dispute being presented and determine

the most appropriate level of formality and procedure to follow.

(3) and (4) remain the same.

(5) Liquor matters and marijuana matters are handled pursuant to the Montana Administrative Procedure Act and are not subject to this rule.

AUTH: 15-1-201, 15-1-211, 16-12-112, MCA

IMP: 15-1-211, 16-12-109, 16-12-112, MCA

42.39.102 DEFINITIONS The following definitions apply to this chapter:

(1) through (18) remain the same.

(19) "Green county" means a county where the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020 general election or where the local government approval provisions of 16-12-301, MCA, have been satisfied.

(20) through (23) remain the same.

(24) "Limited access area" means a building, room, or other contiguous area upon the ~~registered~~ licensed premises where marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under the control of the licensee.

(25) through (42) remain the same.

(43) "Red county" means a county where the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020 general election or where the local government has voted to prohibit all marijuana businesses pursuant to 16-12-301, MCA.

(44) through (54) remain the same.

AUTH: ~~50-46-344~~ 16-12-112, MCA

IMP: ~~50-46-303, 50-46-307, 50-46-308, 50-46-310, 50-46-318, 50-46-344, 16-12-101, 16-12-102, 16-12-104, 16-12-105, 16-12-112, 16-12-201, 16-12-207, 16-12-208, 16-12-210, 16-12-301, 16-12-501, 16-12-503, 16-12-508, 16-12-515, 16-12-533,~~ MCA

42.39.112 FINGERPRINT AND BACKGROUND CHECK REQUIREMENTS

(1) and (2) remain the same.

(3) ~~If an adequate set of fingerprints cannot be obtained, a federal name based background check can be conducted but may take up to 90 days to complete.~~

(4) ~~Fingerprint background checks are required with the initial application and annual renewal applications.~~

(5) remains the same but is renumbered (3).

(6) ~~If the certified fingerprinting agency charges a fee for fingerprinting, the applicant is responsible for the fee.~~

AUTH: ~~50-46-344~~ 16-12-112, MCA

IMP: ~~50-46-303, 50-46-307, 50-46-308, 50-46-311, 50-46-344~~ 16-12-112, 16-12-129, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.39.112 to remove current (3) from the rule because 16-12-129, MCA, requires a fingerprint-based background check, provides no accommodation for a name-based check except in years that a fingerprint-based check is not required. The department also proposes to remove (4) because 16-12-129, MCA, provides that fingerprint-based background checks are only required upon initial application and every five years thereafter. Lastly, the department proposes to remove (6) as obsolete because the payment of fees are addressed in ARM 42.39.104.

42.39.115 WORKER PERMITS (1) through (5) remain the same.

(6) Applicants must pay the fee provided in ARM 42.39.104 within ten days of submitting an application. Failure to pay the fee within the 10-day period will result in denial of the application.

(7) When an application is denied for any reason, an applicant must reapply and resubmit the fee provided in ARM 42.39.104.

AUTH: 16-12-112, MCA

IMP: 16-12-112, 16-12-226, MCA

42.39.118 ALLOWABLE AMOUNTS (1) A registered cardholder may submit a petition for an increase in the monthly purchase limits defined in ~~16-12-505~~ 16-12-515, MCA, on a form approved by the department and submitted through the licensing system.

(a) and (b) remain the same.

(2) Usable marijuana may be in the form of flower or marijuana products.

The following conversion shall be used to determine the allowable amounts of non-flower marijuana:

(a) 1 ounce of marijuana flower is equal to:

(i) 800 mg of THC in marijuana-infused products including edibles; or

(ii) 8 grams or 8 mL of THC in marijuana concentrate.

(b) ~~A registered cardholder~~ customer may purchase or possess any combination of marijuana flower or marijuana products if the total calculated conversion is equal to or less than the legal purchase or possession amount.

AUTH: 16-12-112, MCA

IMP: 16-12-106, 16-12-112, 16-12-207, 16-12-210, 16-12-301, 16-12-503, 16-12-515, MCA

42.39.123 ADVERTISING (1) through (11) remain the same.

~~(12) The department's enforcement of the advertising restrictions provided under this rule shall begin on January 1, 2022.~~

AUTH: ~~Section 3, Ch. 505, L. 2021; 50-46-341, 50-46-344,~~ 16-12-112, 16-12-211, MCA

IMP: ~~50-46-341,~~ 16-12-112, 16-12-211, MCA

42.39.203 SEED-TO-SALE TRACKING AND RECONCILIATION

(1) remains the same.

(2) Each individual marijuana plant that reaches a height of twelve inches must be issued a unique identification number in the seed-to-sale tracking system, which follows the plant through all phases of production and final sale to a ~~registered cardholder~~ customer.

(3) through (13) remain the same.

AUTH: 16-12-112, MCA

IMP: 16-12-105, 16-12-108, 16-12-112, 16-12-203, 16-12-209, 16-12-210, 16-12-515, MCA

42.39.413 TRANSPORTATION OF MARIJUANA AND MARIJUANA PRODUCTS; MARIJUANA TRANSPORTER LICENSES (1) through (15) remain the same.

AUTH: 16-12-112, 16-12-222, MCA

IMP: 16-12-112, 16-12-222, MCA

42.39.502 DEFICIENCY REPORTS (1) through (4) remain the same.

(5) If a licensee fails to respond to a deficiency report within ten days, the department may issue a notice of proposed department action. Failing to respond to a deficiency report within ten days may be cited as a separate violation subject to the imposition of a civil penalty.

(6) remains the same.

AUTH: 16-12-112, MCA

IMP: 16-12-101, 16-12-210, MCA

42.39.505 SERVICE OF NOTICES (1) A notice of proposed ~~department~~ adverse action issued by the department pursuant to ~~16-12-112, MCA, the~~ marijuana laws shall be served upon the licensee by sending a copy of the notice to the licensee by electronic means to the email address on file with the department.

(2) and (3) remain the same.

(4) A licensee must respond to the department in writing within 20 days of service of the notice of proposed ~~department~~ adverse action. Failure to respond will result in enforcement of the administration action proposed in the notice.

AUTH: 16-12-112, MCA

IMP: 2-4-601, 16-12-104, 16-12-105, 16-12-106, 16-12-107, 16-12-108, 16-12-109, 16-12-112, 16-12-202, 16-12-203, 16-12-206, 16-12-210, 16-12-221, 16-12-223, 16-12-503, 16-12-515, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department deems it necessary to propose an amendment to ARM 42.39.505(4) to clarify that all adverse actions (e.g., a denial of application) are subject to the 20-day response deadline and are not isolated to

proposed department actions (PDAs). The clarification is based on department interactions with applicants and licensees who have posited procedural questions regarding adverse actions.

5. The department proposes to repeal the following rules:

42.39.109 PROVIDER AND MARIJUANA-INFUSED PRODUCTS  
PROVIDER TIER 10 THROUGH TIER 12 CANOPY LICENSE AND REGISTERED  
PREMISES REQUIREMENTS

AUTH: 50-46-305, MCA  
IMP: 50-46-305, MCA

42.39.110 PROVIDER AND MARIJUANA-INFUSED PRODUCTS  
PROVIDER TIER 10 THROUGH TIER 12 CANOPY LICENSE ANNUAL FEE  
REQUIREMENTS

AUTH: 50-46-344, MCA  
IMP: 50-46-305, MCA

42.39.120 HEALTH CARE FACILITY PROCEDURES

AUTH: 50-46-344, MCA  
IMP: 50-46-303, 50-46-320, 50-46-344, MCA

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [todd.olson@mt.gov](mailto:todd.olson@mt.gov) and must be received no later than 5:00 p.m. July 25, 2022.

7. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. An electronic copy of this notice is available on the department's web site at [www.mtrevenue.gov](http://www.mtrevenue.gov), or through the Secretary of State's web site at [sosmt.gov/ARM/register](http://sosmt.gov/ARM/register).

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ David R. Stewart  
David R. Stewart  
Authorized Signor  
for the Department of Revenue

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF ADOPTION OF
emergency rules closing the	)	EMERGENCY RULES
Yellowstone River from the	)	
Yellowstone National Park Boundary	)	
to the Springdale Bridge Fishing	)	
Access Site	)	

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of emergency rules closing all recreational use for the Yellowstone River from the Yellowstone National Park boundary to the Springdale Bridge fishing access site.

(a) There has been a drastic spike in water flow on the Yellowstone River that has caused water to channel and flood multiple portions of the river.

(b) The combination of dangerous conditions includes changing flooded areas throughout the sites, moving debris, bridge and infrastructure failure, swift and unpredictable water conditions, and potentially unstable trees that could fall, rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating on the Yellowstone River would be at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rules. The emergency rules will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rules will be sent to interested parties and published as emergency rules in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 11, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rules are effective June 13, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rules provides as follows:



RULE I YELLOWSTONE RIVER EMERGENCY CLOSURE (1) The Yellowstone River is closed to all recreational use from the Yellowstone National Park boundary to the Springdale Bridge fishing access site.

(2) This rule will remain in effect until the department determines that the affected areas on the above-mentioned parts of the Yellowstone River are again safe for public occupancy and recreational use. This will depend on the extent and duration of the increased waterflow on the Yellowstone River causing severe life-threatening flooding. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA  
IMP: 2-4-303, 87-1-202, MCA

RULE II YELLOWSTONE RIVER FISHING ACCESS SITES EMERGENCY CLOSURE (1) All fishing access sites from the Yellowstone National Park boundary to the Springdale Bridge fishing access site along the Yellowstone River are closed to all public occupation and recreation.

(2) This rule will remain in effect until the department determines that the affected areas on the above-mentioned parts of the Yellowstone River are again safe for public occupancy and recreational use. This will depend on the extent and duration of the increased waterflow on the Yellowstone River causing severe life-threatening flooding. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA  
IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rules is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to: Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; or e-mail cbell@mt.gov. Any comments must be received no later than August 1, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by e-mail on June 13, 2022.

/s/ Mike Volesky

Mike Volesky  
Chief of Operations  
Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel  
Rule Reviewer

Certified to the Secretary of State June 13, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an	)	NOTICE OF ADOPTION OF
emergency rule closing fishing	)	EMERGENCY RULE
access sites from the Axtell Bridge	)	
Fishing Access Site to the Bud Lilly	)	
Fishing Access Site on the Gallatin	)	
River	)	

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing all fishing access sites on the Gallatin River from the Axtell Bridge fishing access site to the Bud Lilly fishing access site.

(a) There has been a drastic spike in water flow on the Gallatin River that has caused water to channel and flood multiple portions of the river.

(b) The combination of dangerous conditions includes changing flooded areas throughout the sites, moving debris, bridge and infrastructure failure, swift and unpredictable water conditions, and potentially unstable trees that could fall, rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating on the Gallatin River would be at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rules will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closures will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 11, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 13, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

RULE I GALLATIN RIVER FISHING ACCESS SITES EMERGENCY

CLOSURE (1) All fishing access sites from the Axtell Bridge fishing access site to the Bud Lilly fishing access site along the Gallatin River are closed to all public occupation and recreation.

(2) This rule will remain in effect until the department determines that the affected areas on the above-mentioned parts of the Gallatin River are again safe for public occupancy and recreational use. This will depend on the extent and duration of the increased waterflow on the Gallatin River causing severe life-threatening flooding. Signs closing the fishing access sites will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to: Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; or e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than August 1, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 13, 2022.

/s/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 13, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an	)	NOTICE OF ADOPTION OF
emergency rule closing fishing	)	EMERGENCY RULE
access sites from the Sappington	)	
Bridge Fishing Access Site to the	)	
Drouillard Fishing Access Site on the	)	
Jefferson River	)	

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing all fishing access sites on the Jefferson River from the Sappington Bridge fishing access site to the Drouillard fishing access site.

(a) There has been a drastic spike in water flow on the Jefferson River that has caused water to channel and flood multiple portions of the river.

(b) The combination of dangerous conditions includes changing flooded areas throughout the sites, moving debris, bridge and infrastructure failure, swift and unpredictable water conditions, and potentially unstable trees that could fall, rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating on the Jefferson River would be at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closures will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 11, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 13, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

RULE I JEFFERSON RIVER FISHING ACCESS SITES EMERGENCY CLOSURE (1) All fishing access sites from the Sappington Bridge fishing access site to the Drouillard fishing access site along the Jefferson River are closed to all public occupation and recreation.

(2) This rule will remain in effect until the department determines that the affected areas on the above-mentioned parts of the Jefferson River are again safe for public occupancy and recreational use. This will depend on the extent and duration of the increased waterflow on the Jefferson River causing severe life-threatening flooding. Signs closing the fishing access sites will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to: Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; or e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than August 1, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 13, 2022.

/s/ Mike Volesky  
Mike Volesky  
Chief of Operations  
Department of Fish, Wildlife and Parks

/s/ Zach Zipfel  
Zach Zipfel  
Rule Reviewer

Certified to the Secretary of State June 13, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an            ) NOTICE OF ADOPTION OF  
emergency rule closing the Ruby            ) EMERGENCY RULE  
Island Fishing Access Site in Madison    )  
County    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Ruby Island Fishing Access Site:

(a) The dangerous conditions include high water levels which have flooded the Ruby Island Fishing Access Site including roadways making it impassable and unsafe for vehicle and pedestrian travel.

(b) Persons recreating in the flooded portions of the site are at risk of injury or drowning due to unexpected changes to topography obscured by flood waters.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 14, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I RUBY ISLAND FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Ruby Island Fishing Access Site is located in Madison County.

(2) The Ruby Island Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the fishing access site.

(4) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 14, 2022.

/s/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 14, 2022.



BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an	)	NOTICE OF ADOPTION OF
emergency rule closing the Ennis	)	EMERGENCY RULE
Fishing Access Site in Madison	)	
County	)	

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Ennis Fishing Access Site:

(a) The dangerous conditions include high water levels which have flooded the Ennis Fishing Access Site including roadways making it impassable and unsafe for vehicle and pedestrian travel.

(b) Persons recreating in the flooded portions of the site are at risk of injury or drowning due to unexpected changes to topography obscured by flood waters.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 14, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I ENNIS FISHING ACCESS SITE EMERGENCY CLOSURE

(1) The Ennis Fishing Access Site is located in Madison County.

(2) The Ennis Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the fishing access site.

(4) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 14, 2022.

/s/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the Valley                    ) EMERGENCY RULE  
Garden Fishing Access Site in                        )  
Madison County   )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Valley Garden Fishing Access Site:

(a) The Madison River is flooded and is unpredictably eroding the riverbank causing the banks to become unstable and to slough into the fast-moving river flow.

(b) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 14, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I VALLEY GARDEN FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Valley Garden Fishing Access Site is located in Madison County.

(2) The Valley Garden Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the fishing access site.

(4) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 14, 2022.

/s/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Alder        ) EMERGENCY RULE  
Bridge Fishing Access Site in        )  
Madison County        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Alder Bridge Fishing Access Site:

(a) The dangerous conditions include high water levels which have flooded the Alder Bridge Fishing Access Site including roadways making it impassable and unsafe for vehicle and pedestrian travel.

(b) Persons recreating in the flooded portions of the site are at risk of injury or drowning due to unexpected changes to topography obscured by flood waters.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 14, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I ALDER BRIDGE FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Alder Bridge Fishing Access Site is located in Madison County.

(2) The Alder Bridge Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the fishing access site.

(4) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 14, 2022.

/s/ Mike Volesky

Mike Volesky

Chief of Operations

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an            ) NOTICE OF ADOPTION OF  
emergency rule closing the Old Steel        ) EMERGENCY RULE  
Bridge Fishing Access Site in                )  
Flathead County                                )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Old Steel Bridge Fishing Access Site:

(a) The Flathead River is flooded. The dangerous conditions include high water levels which have flooded the Old Steel Bridge Fishing Access Site. The high waters are unpredictably eroding the riverbank causing the banks to become unstable and to slough into the fast-moving river flow.

(b) Persons recreating on the fishing access site are at risk of:

(i) unexpectedly being swept into the river; and

(ii) injury or drowning due to unexpected changes to topography obscured by flood waters.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 14, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I OLD STEEL BRIDGE FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Old Steel Bridge Fishing Access Site is located in Flathead County.

(2) The Old Steel Bridge Fishing Access Site is closed to all public occupation and recreation as signed.

- (3) This rule is effective as long as water is flooding the fishing access site.
- (4) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

- 5. The rationale for the emergency rule is set forth in paragraph 1.
- 6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.
- 7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.
- 8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.
- 9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 14, 2022.

/s/ Mike Volesky  
Mike Volesky  
Chief of Operations  
Department of Fish, Wildlife and Parks

/s/ Zach Zipfel  
Zach Zipfel  
Rule Reviewer

Certified to the Secretary of State June 14, 2022.



BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the                            ) EMERGENCY RULE  
Yellowstone River in Stillwater                    )  
County    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) Due to recent severe flooding, dangerous conditions exist in the Yellowstone River including downed powerlines and other structures. Other obstructions may fall into the Yellowstone River due to erosion of the riverbank causing the banks to become unstable.

(b) Persons recreating on the river are at risk of:

(i) electrocution; and

(ii) injury or drowning due to collision with unexpected obstructions in the river.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I YELLOWSTONE RIVER IN STILLWATER COUNTY  
EMERGENCY CLOSURE (1) A portion of the Yellowstone River is in Stillwater County.

(2) The Yellowstone River within Stillwater County is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the river is again safe for occupation and recreation. This will depend on the extent and duration of the flooding in the area. Signs closing the river will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the Stillwater            ) EMERGENCY RULE  
River in Stillwater County                        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) Due to recent severe flooding, dangerous conditions exist in the Stillwater River including downed powerlines and other structures. Other obstructions may fall into the Stillwater River due to erosion of the riverbank causing the banks to become unstable.

(b) Persons recreating on the river are at risk of:

(i) electrocution; and

(ii) injury or drowning due to collision with unexpected obstructions in the river.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I STILLWATER RIVER IN STILLWATER COUNTY  
EMERGENCY CLOSURE (1) A portion of the Stillwater River is in Stillwater County.

(2) The Stillwater River within Stillwater County is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the river is again safe for occupation and recreation. This will depend on the extent and

duration of the flooding in the area. Signs closing the river will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the West                    ) EMERGENCY RULE  
Rosebud Creek and Rosebud Creek                )  
in Stillwater County                                )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) Due to recent severe flooding, dangerous conditions exist in the West Rosebud Creek and Rosebud Creek including downed powerlines and other structures. Other obstructions may fall into the West Rosebud Creek and Rosebud Creek due to erosion of the riverbank causing the banks to become unstable.

(b) Persons recreating on the creek are at risk of:

(i) electrocution; and

(ii) injury or drowning due to collision with unexpected obstructions in the river.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I WEST ROSEBUD CREEK AND ROSEBUD CREEK IN STILLWATER COUNTY EMERGENCY CLOSURE (1) West Rosebud Creek and Rosebud Creek are in Stillwater County.

(2) West Rosebud Creek from Rosebud Isle Fishing Access Site to the confluence with Rosebud Creek is closed to all public occupation and recreation as signed.

(3) Rosebud Creek is closed to all public occupation and recreation as signed.

(4) This rule will expire as soon as the department determines the creeks are again safe for occupation and recreation. This will depend on the extent and duration of the flooding in the area. Signs closing the creeks will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the Absaroka                ) EMERGENCY RULE  
Fishing Access Site in Stillwater                    )  
County    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Absaroka Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I ABSAROKA FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Absaroka Fishing Access Site is located in Stillwater County.

(2) The Absaroka Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.



BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an            ) NOTICE OF ADOPTION OF  
emergency rule closing the Buffalo        ) EMERGENCY RULE  
Jump Fishing Access Site in                )  
Stillwater County                            )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Buffalo Jump Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I BUFFALO JUMP FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Buffalo Jump Fishing Access Site is located in Stillwater County.

(2) The Buffalo Jump Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an            ) NOTICE OF ADOPTION OF  
emergency rule closing the Castle            ) EMERGENCY RULE  
Rock Fishing Access Site in Stillwater    )  
County    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Castle Rock Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I CASTLE ROCK FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Castle Rock Fishing Access Site is located in Stillwater County.

(2) The Castle Rock Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the Cliff                    ) EMERGENCY RULE  
Swallow Fishing Access Site in                    )  
Stillwater County                                    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Cliff Swallow Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I CLIFF SWALLOW FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Cliff Swallow Fishing Access Site is located in Stillwater County.

(2) The Cliff Swallow Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Fireman's     ) EMERGENCY RULE  
Point Fishing Access Site in Stillwater   )  
County   )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Fireman's Point Fishing Access Site:

- (a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.
- (b) The vault latrines have flooded contaminating the site.
- (c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.
- (d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I FIREMAN'S POINT FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Fireman's Point Fishing Access Site is located in Stillwater County.

(2) The Fireman's Point Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.



BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the Jeffrey's                ) EMERGENCY RULE  
Landing Fishing Access Site in                    )  
Stillwater County                                        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Jeffrey's Landing Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I JEFFREY'S LANDING FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Jeffrey's Landing Fishing Access Site is located in Stillwater County.

(2) The Jeffrey's Landing Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Moraine        ) EMERGENCY RULE  
Fishing Access Site in Stillwater        )  
County        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Moraine Fishing Access Site:

- (a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.
- (b) The vault latrines have flooded contaminating the site.
- (c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.
- (d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I MORaine FISHING ACCESS SITE EMERGENCY CLOSURE

- (1) The Moraine Fishing Access Site is located in Stillwater County.
- (2) The Moraine Fishing Access Site is closed to all public occupation and recreation as signed.
- (3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the Swinging                ) EMERGENCY RULE  
Bridge Fishing Access Site in                        )  
Stillwater County                                        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Swinging Bridge Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I SWINGING BRIDGE FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Swinging Bridge Fishing Access Site is located in Stillwater County.

(2) The Swinging Bridge Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an                    ) NOTICE OF ADOPTION OF  
emergency rule closing the White                    ) EMERGENCY RULE  
Bird Fishing Access Site in Stillwater            )  
County    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the White Bird Fishing Access Site:

(a) Due to the recent severe flooding of the Stillwater River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I WHITE BIRD FISHING ACCESS SITE EMERGENCY CLOSURE (1) The White Bird Fishing Access Site is located in Stillwater County.

(2) The White Bird Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.



BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an        ) NOTICE OF ADOPTION OF  
emergency rule closing the Rosebud        ) EMERGENCY RULE  
Isle Fishing Access Site in Stillwater     )  
County   )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Rosebud Isle Fishing Access Site:

(a) Due to the recent severe flooding of West Rosebud Creek, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I ROSEBUD ISLE FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Rosebud Isle Fishing Access Site is located in Stillwater County.

(2) The Rosebud Isle Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an            ) NOTICE OF ADOPTION OF  
emergency rule closing the Holmgren        ) EMERGENCY RULE  
Ranch Fishing Access Site in                )  
Stillwater County                                )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Holmgren Ranch Fishing Access Site:

(a) Due to the recent severe flooding of the Yellowstone River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I HOLMGREN RANCH FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Holmgren Ranch Fishing Access Site is located in Stillwater County.

(2) The Holmgren Ranch Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff

Kevin Rechkoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of an            ) NOTICE OF ADOPTION OF  
emergency rule closing the Indian            ) EMERGENCY RULE  
Fort Fishing Access Site in Stillwater        )  
County    )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Indian Fort Fishing Access Site:

(a) Due to the recent severe flooding of the Yellowstone River, the riverbank is eroding and sloughing into the river.

(b) The vault latrines have flooded contaminating the site.

(c) Persons recreating on the fishing access site may become unexpectedly swept into the river and are at risk of injury or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 12 of the 2022 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on July 8, 2022, to advise us of the nature of the accommodation that you need. Please contact Crissy Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rule is effective June 16, 2022, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I INDIAN FORT FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Indian Fort Fishing Access Site is located in Stillwater County.

(2) The Indian Fort Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding and site conditions in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Crissy Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [cbell@mt.gov](mailto:cbell@mt.gov). Any comments must be received no later than July 22, 2022.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website ([leg.mt.gov](http://leg.mt.gov)), were contacted by e-mail on June 16, 2022.

/s/ Hank Worsch

Hank Worsch

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State June 16, 2022.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 18.8.431, 18.8.1502, 18.8.1503, )  
and 18.8.1505 pertaining to Motor )  
Carrier Services Maximum Allowable )  
Weight and Safety Requirements )

TO: All Concerned Persons

1. On April 29, 2022, the Department of Transportation published MAR Notice No. 18-188 pertaining to the proposed amendment of the above-stated rules at page 553 of the 2022 Montana Administrative Register, Issue Number 8.

2. The department has amended the following rules as proposed: ARM 18.8.431, 18.8.1502, 18.8.1503, and 18.8.1505.

3. The department has thoroughly considered the comments received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: MDT received one comment asking whether the proposed changes to ARM 18.8.431 will affect any of the current carriers on these routes.

RESPONSE: There will be no impact to current carriers operating on these routes.

COMMENT #2: MDT received one comment that the adoption of 49 CFR part 393.11(b) Conspicuity Markings does not directly affect the safety on Montana's highways and that it be excluded from this adoption.

RESPONSE: MDT is obligated under federal law to adopt safety regulations for interstate commercial motor vehicles operating in the state of Montana. Omitting this requirement under the regulation for interstate commercial vehicles would create confusion for inspecting officers and the operators of commercial motor vehicles, and lead to administrative problems wherein Montana motor carriers could receive a clean inspection while operating in Montana but receive a violation during an inspection in another state. The current proposed rule makes no changes to the federal regulations regarding 49 CFR 393.11(b)

COMMENT #3: MDT received one comment that the adoption of 49 CFR part 393.11 Table 1 #11 – License Plate Lights does not directly affect safety on Montana's highways and that it be excluded from this adoption.

RESPONSE: See response to Comment #2 above. The current proposed rule makes no changes to the federal regulations regarding 49 CFR 393.11 Table 1 #11.

COMMENT #4: MDT received one comment that the adoption of 49 CFR part 393.11 Table 1 #14 – Backup Lights does not directly affect safety on Montana's highways and that it be excluded from this adoption.

RESPONSE: See response to Comment #2 above. The current proposed rule makes no changes to the federal regulations regarding 49 CFR 393.11 Table 1 #14.

COMMENT #5: MDT received one comment that the adoption of 49 CFR part 393.60(c)(2) Windshield Condition does not directly affect safety on Montana's highways and that it be excluded from this adoption.

RESPONSE: See response to Comment #2 above. The current proposed rule makes no changes to the federal regulations regarding 49 CFR 393.60(c)(2).

COMMENT #6: MDT received one comment that the adoption of 49 CFR part 393.76(e) Bedding in Sleeper does not directly affect safety on Montana's highways and that it be excluded from this adoption.

RESPONSE: See response to Comment #2 above. The current proposed rule makes no changes to the federal regulations regarding 49 CFR 393.76(e). Additionally, MCS has not noted this violation on roadside level 1 or 2 inspections in the past three years.

COMMENT #7: MDT received one comment that solo drivers and day use should be exempt from the adoption of 49 CFR part 393.76(h) Sleeper Occupant Restraint.

RESPONSE: See response to Comment #2 above. The current proposed rule makes no changes to the federal regulations regarding 49 CFR 393.76(h).

/s/ Valerie A. Balukas  
Valerie A. Balukas  
Alternate Rule Reviewer

/s/ Malcolm "Mack" Long  
Malcolm "Mack" Long  
Director  
Department of Transportation

Certified to the Secretary of State June 14, 2022.



BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.22.322, 24.22.327,	)	REPEAL
24.22.331, and 24.22.335 and the	)	
repeal of ARM 24.22.338 pertaining to	)	
incumbent worker training (IWT)	)	
program	)	

TO: All Concerned Persons

1. On May 13, 2022, the Department of Labor and Industry published MAR Notice No. 24-22-393 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 646 of the 2022 Montana Administrative Register, Issue No. 9.

2. On June 9, 2022, a public hearing was held on the proposed amendment and repeal of the above-stated rules via the videoconference and telephonic platform at which no members of the public attended. No comments were received by the June 10, 2022 deadline.

3. The department has amended ARM 24.22.322, 24.22.327, 24.22.331, and 24.22.335 and repealed ARM 24.22.338 exactly as proposed.

4. The department intends for the amendment and repeal of the above-stated rules to be effective July 1, 2022.

/s/ QUINLAN L. O'CONNOR  
Quinlan L. O'Connor  
Rule Reviewer

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.29.1402, 24.29.1433, )  
24.29.1534, 24.29.1538, and )  
24.29.1616 pertaining to medical fee )  
schedules and drug formulary for )  
workers' compensation purposes )

TO: All Concerned Persons

1. On May 13, 2022, the Department of Labor and Industry (department) published MAR Notice No. 24-29-392 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 650 of the 2022 Montana Administrative Register, Issue Number 9.

2. The department held a public hearing in Helena on June 8, 2022, over the Zoom videoconference and telephonic platform at which no members of the public commented. Written comments were received during the public comment period.

3. The department has thoroughly considered the comments made. A summary of the comments and the department's responses are as follows:

COMMENT #1: Commenters support the rule for timely filing of medical bills because the rule will assist with proper claim handling and maintaining appropriate claim reserves. The rule will help ensure that claims are submitted and resolved in a timely manner and adds predictability to the claim-handling system. The 365-day timeline to submit medical bills is reasonable and in line with the workers' compensation systems of several other states.

RESPONSE #1: The department acknowledges the comments.

COMMENT #2: Commenters support the update to the drug formulary in ARM 24.29.1616(2) because the update is required by both statute and rule. Commenters support the department's determination to not amend ARM 24.29.1616(3).

RESPONSE #2: The department acknowledges the comments.

4. The department has amended the above-stated rules as proposed.

/s/ QUINLAN L. O'CONNOR  
Quinlan L. O'Connor  
Alternate Rule Reviewer

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 14, 2022.

BEFORE THE BOARD OF PSYCHOLOGISTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.189.401 fee schedule and )  
24.189.910 behavior analyst )  
experience and supervision )

TO: All Concerned Persons

1. On April 15, 2022, the Board of Psychologists (board) published MAR Notice No. 24-189-43 regarding the public hearing on the proposed amendment of the above-stated rules, at page 454 of the 2022 Montana Administrative Register, Issue No. 7.

2. On May 6, 2022, a public hearing was held on the proposed amendment of the above-stated rules via the videoconference and telephonic platform. No comments were received by the May 13, 2022 deadline.

3. The board has amended ARM 24.189.401 and 24.189.910 exactly as proposed.

BOARD OF PSYCHOLOGISTS  
DR. LORETTA BOLYARD, Ph.D., CHAIR

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES  
OF THE STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF AMENDMENT  
ARM 37.79.326 pertaining to HMK        )  
Dental procedure codes                 )

TO: All Concerned Persons

1. On April 29, 2022, the Department of Public Health and Human Services published MAR Notice No. 37-976 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 573 of the 2022 Montana Administrative Register, Issue Number 8.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.
4. This rule amendment is effective July 1, 2022.

/s/ Brenda K. Elias  
Brenda K. Elias  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC HEALTH  
AND HUMAN SERVICES  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 37.85.104, 37.85.105, )  
37.85.106, and 37.86.3607 pertaining )  
to updating Medicaid and non- )  
Medicaid provider rates, fee )  
schedules, and effective dates )

TO: All Concerned Persons

1. On April 29, 2022, the Department of Public Health and Human Services published MAR Notice No. 37-983 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 576 of the 2022 Montana Administrative Register, Issue Number 8.

2. The department has amended the following rules as proposed: ARM 37.85.104, 37.85.105, 37.85.106, and 37.86.3607.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: Several commenters wrote in support of the Level 2 rate for assisted living facilities. The commenters stated that the rate will assist providers in caring for residents as it requires extra time to properly care for them. Additionally, commenters stated the rate will allow improved access to services for individuals with Alzheimer's/Dementia and other mental health issues.

RESPONSE #1: The department agrees with the commenters' statements that it can be more costly to care for residents who qualify for Level 2 Assisted Living Facility Services.

COMMENT #2: Several commenters recommended the proposed rates be increased to represent the 0.3% (three tenths of one percent) increase for State Fiscal Year 2023. One commenter stated the proposed rate for Level 1 does not include a 0.3% rate increase as is indicated for Big Sky Waiver Services. Other than the fee schedule that shows a rate of \$104.00 for Assisted Living Level 1, there is no explanation of why the rate is not increased along with all other waiver services. Also, the commenter stated the information necessary to evaluate the proposal and be fully informed of your rate setting methodology, would include number of days/units anticipated for FY 2023, amount of funding available, room and board amount, and any other components that relate to the rate.

RESPONSE #2: The department agrees with the commenter that residential

services rates, including the proposed Level 1 Assisted Living Facility service rate, should include the 0.3% (three tenths of one percent) rate increase as indicated for Big Sky Waiver Services. The department has revised the Big Sky Waiver home and community-based services for elderly and physically disabled persons fee schedule to implement the 0.3% rate increase for these residential services. The department disagrees with the commenter's statement regarding information necessary to evaluate the rulemaking proposal. The department believes the information provided in the rule notice and publicly available proposed fee schedules is sufficient to enable comment on the proposed rule.

COMMENT #3: One commenter provided their support of the Level 2 Assisted Living Facility proposed rate for Behavior Management. The commenter stated the direct care staff alone are staffed at over three times as much in Memory Care (Alzheimer's and related Dementias) than in their typical Assisted Living. An increase for this level is needed due to the extra staff cost and the rising costs of labor – wage rates, overtime, recruitment efforts.

RESPONSE #3: The department acknowledges the commenter's statements and agrees that it can be more costly to care for residents who qualify for Level 2 Assisted Living Facility Services safely and effectively. Please see the response to comment #2 regarding the 0.3% rate increase for residential services, which includes Level 2 Assisted Living Facility Services.

COMMENT #4: Several commenters wrote regarding the need for an increase in the Room and Board calculation. One commenter further stated that the proposed rate of \$104.00 per day is not enough for the increase of costs that Assisted Livings are having to pay. The commenter stated the facility's cost increase of groceries alone have doubled in the past six months. The commenter stated that the facility will have to stop taking Medicaid Waiver if the facility does not get an increase. The commenter stated the facility has increased their private pay rooms \$300 each month per room to be able to keep staff paid and keep the place running. The commenter stated that on top of groceries increasing, the pay for staff has increased to recruit and retain staff. The staff cannot afford to live on \$11.00 an hour anymore. Furthermore, one commenter stated that in the last 18 months, a facility has had to raise the minimum wage for patient care attendants by almost 40% for employee recruitment and retention. Several commenters stated the room and board amount has not increased since 2009 and recommend an increase from \$545.00 to \$645.00, and one commenter recommends an increase to \$675.00.

RESPONSE #4: The department believes the proposed daily rate, coupled with the 0.3% rate increase described in the response to comment #2, appropriately balances the factors that may be considered under 53-6-113, MCA. The proposed rate ensures fair reimbursement practices by applying a flat rate to all assisted living facility services and eliminating the SLTC-132 Big Sky Waiver Adult Residential Care Calculation. The department also acknowledges the commenter's statement regarding room and board. The room and board cost (\$545) did not change. The room and board calculation for assisted living facilities of \$545 is based on the

Medically Needy Income Level (MNIL) calculation outlined within ARM 37.82.1101 through 37.82.1116.

COMMENT #5: The department received a comment supporting the physician services conversion factor increase.

RESPONSE #5: The department appreciates the comment.

4. These rule amendments are effective July 1, 2022.

/s/ Brenda K. Elias  
Brenda K. Elias  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF AMENDMENT  
ARM 37.40.307 pertaining to nursing        )  
facility reimbursement                        )

TO: All Concerned Persons

1. On April 29, 2022, the Department of Public Health and Human Services published MAR Notice No. 37-989 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 590 of the 2022 Montana Administrative Register, Issue Number 8.

2. The department has amended the above-stated rule as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: A commenter states the rates proposed are totally inadequate and do not consider cost increases due to the ongoing pandemic, the crisis-level workforce shortage, and greatly increased labor costs. The commenter also states the proposed rate fails to consider cost, quality, and access issues, which are factors that necessitate the need for a significant rate increase.

RESPONSE #1: ARM 37.40.307(2)(c) sets forth a non-exhaustive list of factors that may be considered in the establishment of the nursing facility reimbursement rate. Section 53-6-113, MCA, also sets forth a non-exhaustive list of factors, including the availability of appropriated funds the department may consider in establishing the rate. Actual cost of services and access to services are also factors the department may consider in establishing the rate.

Access to services was considered primarily by reviewing facility reports showing the percentage of beds paid by Medicaid and other payors, as well as any changes in the number of beds in facilities and the number of open facilities. Actual cost of services was considered primarily by reviewing provider reports submitted to the department and applying processes outlined in ARM 37.40.307.

In balancing the factors that may be considered, the department's primary consideration was the availability of appropriated funds. The department acknowledges the commenter's statements and the supporting materials provided, but believes the rate proposed is appropriate, given the factors that may be considered under the law, which includes availability of funds.



COMMENT #2: A commenter states the department provided two perfunctory spreadsheets with information that is not fully explained. The commenter also refers to 42 CFR 447.250 and states there is no information available regarding the data and methodology used by the department to determine that the proposed rates are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations, and quality and safety standards. The commenter notes the rule notice states that the department's primary consideration in establishing the proposed rates was the availability of appropriated funds.

RESPONSE #2: The information provided in the rule notice is sufficient to enable comment on the proposed rule. The rule notice specifically references how to access the publicly available Medicaid reimbursement rates for each facility. The quality component spreadsheet specifically explains that the 5-star ratings data was obtained from the previous four quarters (1st Quarter of 2022, 4th Quarter of 2021, and so on), with an average of those four quarterly data amounts used for the quality and staffing ratings scores used in the rate setting calculation.

Please also see the response to comment #1.

COMMENT #3: A commenter states analysis of Montana Medicaid rates by the department's own contractor, Myers & Stauffer, CPAs, dated May 4, 2022, indicates that the average Medicaid cost per day as of December 31, 2020 was \$277.93 per day. The commenter states the department is proposing a rate that is \$65.36 less than the average costs in December 2020 and indicates that increasing costs of labor alone has pushed nursing home costs far beyond the December 2020 costs.

RESPONSE #3: Please see the response to comment #1.

COMMENT #4: A commenter states the proposed rate does not comply with 53-6-113(3), MCA. The commenter acknowledges that state law authorizes the department to consider appropriate factors in setting rates but takes issue with the department looking primarily at the availability of appropriated funds. The commenter believes the proposed rates fail to take into account the factors required by federal law, allowed by state law, and necessary to support quality nursing home services. Lastly, the commenter states it appears the department may be using funding intended for nursing homes to fill in other holes in their budget.

RESPONSE #4: Please see the response to comment #1. The proposed rate fully utilizes funding appropriated by the legislature for nursing homes.

COMMENT #5: A commenter states that access to nursing home services is compromised as facilities throughout the state are turning away admissions because of the workforce shortage and high labor costs. For example, the commenter states that individuals requiring post-hospital care are remaining in hospitals longer because they are having trouble finding a skilled nursing facility to discharge to and that COVID-19 regulations and cases continue to adversely affect facility operations,

occupancy, and staffing levels. The commenter also states that three skilled nursing facilities have closed due to financial issues, and they received notice of another closure coming in August 2022. The commenter states that one facility has delayed closure for the time being because they are receiving help from their local community and local hospital. The commenter also states that even with low occupancy and empty beds, many facilities are declining new admissions and that part of the solution to the access problem would be Medicaid rates that pay for the cost of care and the new reality of very high labor costs.

RESPONSE #5: The department acknowledges the commenter's statements that facility closures, regardless of the reason, adversely impact access to care for Montanans. The department will continue to evaluate barriers and solutions to successful service delivery. The department is committed to strong collaboration with stakeholders over the near and long-term to: (1) modernize skilled nursing facility operations, service delivery, and payment models; (2) ensure sufficient access to skilled nursing facilities that provide quality care to Montanans; and (3) promote the long-term sustainability of skilled nursing facilities in Montana, particularly in frontier regions. The department is working closely with stakeholders, as part of Montana's provider rate study and modernization efforts, to further evaluate sustainable data-driven solutions. Please also see the response to comment #1.

COMMENT #6: A commenter specifically asks the department to consider and evaluate: (1) the information and data the commenter attached; (2) cost increases experienced by facilities including labor costs; (3) the most recent cost reports filed by nursing facilities; (4) costs necessary to be in full compliance with federal regulations and to provide high quality services; and (5) access to nursing home services, and federal and state requirements related to nursing home rate setting.

RESPONSE #6: The department acknowledges and has considered the supporting documentation provided by the commenter and the recommendations outlined therein, but believes the rate as proposed is appropriate, as explained under the response to comment #1.

COMMENT #7: A commenter expresses concern with the proposed rate and states that skilled nursing facilities have been inadequately reimbursed for too many years and immediate help is needed because facilities are closing due to lack of funding. The commenter provides an example of a county-owned facility that is being partially supported by their local taxpayers and fears future closure. The commenter states that due to rising costs of care, difficulty obtaining qualified staff and retaining them, cost of contract staff, increased regulations, and a low rate of reimbursement, it is increasingly more difficult for nursing facilities to accept Medicaid and stay in business.

RESPONSE #7: Please see the responses to comments #1 and #5.

COMMENT #8: A commenter states that while it may sound like a great idea to have people stay in their home and receive care, it is not realistic for everyone. The commenter states that even if services at home are available, they can be cost-prohibitive. The commenter states that skilled nursing facilities and assisted living facilities are usually the last resort for individuals who are ill and can no longer stay at home. The commenter states that many assisted living facilities no longer accept Medicaid because the rates compared to cost of care are too low resulting in limited access to individuals who are middle to low income, which is where skilled nursing facilities come in.

RESPONSE #8: Please see the response to comment #5.

COMMENT #9: A commenter states that with COVID-19 expenses being taken into consideration, the skilled nursing facility it operates has a daily cost of \$551.42 per day per Medicaid resident. The commenter states the facility recently had to partially shut down due to lack of staffing and that fewer residents equates to less revenue, while high overhead costs remain. The commenter indicates that even with increases in staff pay and bonuses recruitment and retention of staff remains an ongoing issue. The commenter states that inflation has led to the cost of everything increasing with no end in sight and that a recent study facilitated by the Montana Health Care Association, indicated labor costs have increased over 40%, and the overall average cost per day of care has increased approximately 26%.

RESPONSE #9: Please see the responses to comments #1 and #5.

COMMENT #10: Several commenters state that the quality component to the rate (\$3.59 per Medicaid day) is somewhat helpful, but the rate add-on still does not come close to assisting facilities in covering costs.

RESPONSE #10: Please see the responses to comments #1 and #5.

COMMENT #11: Several commenters state that the base rate of \$209.34 per day per Medicaid resident does not even come close to covering skilled nursing facility costs. One commenter states that Medicaid reimbursement is an all-inclusive rate intended to cover not only room and board, but also ancillary costs such as personal hygiene items, continence products, OTC (over the counter) medications, wheelchairs/walkers, air beds, cushions, etc. One of these commenters states that a facility in fiscal year 2018 had an average Medicaid cost of \$282.76 per patient per day.

RESPONSE #11: Please see the responses to comments #1 and #5.

COMMENT #12: A commenter who has served Montanans since 1978, states facilities have been under reimbursed for too many years (since at least year 2000). The commenter indicates that rising costs associated with operations and staffing, governmental mandates, and increased regulation will only widen the gap and compound problems associated with low reimbursement rates. The commenter

states rural communities will be negatively impacted by facility closures as individuals will have to relocate 25 to 50 plus miles to access needed care. In turn, this will harm individuals, families, communities, and businesses dependent on the services the skilled nursing facility provides and supports.

RESPONSE #12: Please see the responses to comments #1 and #5.

COMMENT #13: A commenter states that a fragile senior care environment exists due to inflation, low reimbursement rates, and the risk of facility closures. The commenter states that local access has the potential to be diminished if facilities close, which will force individuals to have to relocate from their communities and possibly even out-of-state.

RESPONSE #13: Please see the responses to comments #1 and #5.

COMMENT #14: Several commenters state that the proposed rate compromises access to nursing home services because facilities are turning away admissions and/or partially closing due to a workforce shortage and high labor costs. One of these commenters asks that the department reconsider the extraordinary costs nursing homes have endured.

RESPONSE #14: Please see the responses to comments #1 and #5.

COMMENT #15: A commenter who operates a skilled nursing facility states that the facility currently has eight agency staff, including two licensed practical nurses, one registered nurse, and five certified nursing assistants. The commenter states that in the past, the facility had an average of one or two agency staff. The commenter states that the facility has done everything they can to retain staff including raising wages and maintaining flexible scheduling.

RESPONSE #15: Please see the responses to comments #1 and #5.

COMMENT #16: A commenter states nursing facility administrators are under great pressure both financially and in dealing with the day-to-day activities of nursing homes. The commenter believes that without a significant rate increase many administrators will choose to leave this profession. The commenter states that research has shown changes in administrators lead to decreased quality of care of residents as well as increased deficiencies on future surveys.

RESPONSE #16: Please see the responses to comments #1 and #5.

COMMENT #17: A commenter references a 2018 lawsuit and settlement between the department and the Montana Health Care Association. The commenter expresses disappointment that a rate study has not occurred sooner, although the commenter expresses understanding of the impact COVID-19 had on timelines. The commenter indicates that had the rate study occurred earlier the resulting data could have been applied in setting the current nursing facility reimbursement rate.

RESPONSE #17: Please see the responses to comments #1 and #5.

COMMENT #18: A commenter states their organization owns and operates four nursing homes within Montana. The commenter also states the recent decisions regarding Medicaid rates are having a direct negative effect on the organization's ability to operate and care for residents within their facilities. Additionally, the commenter states the cost to care for those in need of nursing homes has dramatically increased over the years, but especially since the beginning of the COVID-19 pandemic. The commenter urges reevaluation of the proposed rates and budgets and for better understanding by the state of the long-lasting effects of such low reimbursement, coupled with incredibly high costs, that plague the industry.

RESPONSE #18: Please see the responses to comments #1 and #5.

4. These rule amendments are effective July 1, 2022.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State June 14, 2022.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New     ) NOTICE OF ADOPTION  
Rule I pertaining to Montana Energy     )  
Impact Assistance Financing             )

TO: All Concerned Persons

1. On February 11, 2022, the Department of Public Service Regulation published MAR Notice No. 38-5-250 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 217 of the 2022 Montana Administrative Register, Issue Number 3.

2. On April 15, 2022, the Department of Public Service Regulation published an amended notice of proposed adoption of the above-stated rule at page 494 of the 2022 Montana Administrative Register, Issue Number 7.

3. The department has adopted New Rule I (38.5.4303) as proposed in the amended notice.

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Several commenters wished to thank the commission for the opportunity to work with all parties. Commenters agreed that the work done captured the intent of HB 467. The commenters also commended the staff for their work on this rule.

RESPONSE 1: The commission appreciates the commenters' input and support for the proposed rulemaking.

COMMENT 2: One commenter stated that he would like to request some items be changed in the proposed rule. The commenter suggested adding a "calculation" requirement to (2)(b). He stated that the minimum filing requirements with bill impact analysis should be included. He also recommended removing (2)(l) from the rule.

RESPONSE 2: The commission appreciates the commenter's input. The rule proposal as amended on April 15, 2022, and adopted in this notice includes a calculation requirement in (2)(b). The revisions to (2)(b) also address the impact of Montana energy impact assistance charges on the rates customers will pay.

It is unclear to the commission why (2)(l) should be removed, and therefore the commission declines to delete that minimum filing requirement. The commenter said (2)(l) assumed there would be a transfer of "the asset." Subsection (2)(l) of the rule requires utilities to provide a description and timeline for the use of any

"remaining Montana energy impact assistance bond proceeds" that are not approved by the commission as part of the utility's application. The commission believes this information will be essential to the efficient administration of the contested case, and will therefore leave it in the rule.

COMMENT 3: One commenter asked the commission to clarify and revise (2)(b) to address ambiguity regarding how securitization would affect supply cost tracking. The commenter encouraged the commission to leave adjustments to supply cost base rates to a separate proceeding—either a general rate case or a supply cost tracking adjustment—and keep proceedings under the Montana Energy Impact Assistance Act focused on securitization only.

RESPONSE 3: The commission appreciates the commenter's perspective, but declines to modify (2)(b). Supply cost tracking mechanisms are a major portion of rates customers pay. The commenter's concerns appear to be directed at the possibility that the supply cost base rates would be reduced without accounting for the costs of replacement power, which would also need to be collected through a supply cost tracking mechanism. The commission anticipates that both of these changes would be accounted for in the minimum filing requirement described in (2)(b). In other words, the commission intends to receive forecasts of replacement power costs under (2)(b). The cost of replacement power may or may not be less the supply costs associated with the securitized asset. If a utility's supply cost tracking mechanism includes a cost-sharing ratio, it will be all the more important to understand how the supply cost tracking mechanism will reflect the net effect of securitizing an asset and obtaining replacement power.

COMMENT 4: One commenter supported (2)(b)'s requirement that utilities calculate the anticipated impact on supply cost tracking mechanisms. The commenter remarked that the calculation would not be burdensome and would result in a better understanding of the utility's proposal.

RESPONSE 4: The commission appreciates and agrees with the comment.

/s/ LUCAS HAMILTON

Lucas Hamilton  
Rule Reviewer

/s/ JAMES BROWN

James Brown  
President  
Montana Public Service Commission

Certified to the Secretary of State June 14, 2022.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rules I through V pertaining to	)	AMENDMENT
election security definitions, security	)	
assessment requirements, security	)	
awareness training requirements,	)	
physical security requirements, and	)	
additional election security	)	
requirements; and the amendment of	)	
ARM 44.3.1701 pertaining to	)	
definitions related to the examination	)	
of voting machines and devices	)	

TO: All Concerned Persons

1. On April 5, 2022, the Secretary of State published MAR Notice No. 44-2-255 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 507 of the 2022 Montana Administrative Register, Issue Number 7. On May 13, 2022, the Secretary of State published a second notice pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 676 of the 2022 Montana Administrative Register, Issue Number 9.

2. On June 3, 2022, a public hearing was held on the proposed adoption and amendment of the above-stated rules.

3. The Secretary has thoroughly considered the relevant comments and testimony received. A summary of the comments received and the Secretary's responses are as follows:

COMMENT 1: Commenters expressed general support for MAR Notice No. 44-2-255.

RESPONSE 1: The Secretary appreciates the public's participation in this rulemaking process.

COMMENT 2: A commenter said that additional clarification is needed on the requirements for annual security assessments regarding the controls and timing.

RESPONSE 2: The proposal requires annual security assessments to be completed based on the NIST (National Institute of Standards and Technology) or CIS (Center for Internet Security) standards outlined in the proposal notice. The assessments shall be performed every year, where at least once every three years it be performed by an independent, third-party, and qualified assessor. When not performed by an



independent, third-party, qualified assessor, a county election office may perform a self-assessment based on the same standards.

COMMENT 3: A commenter suggested that in New Rule IV, the reference to video surveillance of rooms or areas where ballots are opened, processed, tabulated, or hand-counted be expanded to recommend video surveillance at any time a person or persons are in the room or other areas until they leave the room or other areas. The commenter also offered the alternative suggestion of recommending surveillance of those areas be 24 hours a day/7 days a week.

RESPONSE 3: The proposed language recommends surveillance during the administration of elections. Expanding the requirement as suggested by the commenter extends beyond Secretary's authority.

COMMENT 4: A commenter suggested that the Secretary should provide in rule that the Secretary of State employs an Information Security Manager to ensure both election security and agency-wide security.

RESPONSE 4: The organizational structure of the Office of the Secretary of State is described in ARM 44.1.101.

COMMENT 5: A commenter noted that machines should not be on a network which would be necessary for them to talk to each other.

RESPONSE 5: In the proposal, NEW RULE V(1) indicates that "Any type of component that is used within a voting system as defined in 13-1-101, MCA, shall not be connected to a computer network at any time."

COMMENT 6: Two commenters indicated that they were supportive of the proposed changes but believe the draft rules do not go far enough and wished the agency included more rules on the general topic of election security.

RESPONSE 6: The Secretary acknowledges the commenters' desire for more security rules, but believes the proposal satisfies the legislative requirement as outlined in HB 530 (2021). This was affirmed in testimony during the rule hearing by Rep. McKamey, as sponsor of HB 530 (2021), who indicated she was satisfied that the rules meet the requirements and legislative intent.

4. The Secretary of State adopts New Rule I (44.3.2901), New Rule II (44.3.2902), New Rule III (44.3.2903), New Rule IV (44.3.2904), and New Rule V (44.3.2905) as proposed.

5. The Secretary of State amends ARM 44.3.1701 as proposed.

/s/ AUSTIN JAMES  
Austin James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 14th day of June, 2022.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the adoption of New     ) NOTICE OF ADOPTION  
Rules I through IV pertaining to Minor     )  
Parties     )

TO: All Concerned Persons

1. On May 13, 2022, the Secretary of State published MAR Notice No. 44-2-258 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 683 of the 2022 Montana Administrative Register, Issue Number 9.

2. On June 3, 2022, a public hearing was held on the proposed adoption of the above-stated rules.

3. One person attended the hearing and testified in support of MAR Notice No. 44-2-258. The Secretary appreciates the public's participation in this rulemaking process.

4. The Secretary of State adopts New Rule I (44.3.1002), New Rule II (44.3.1003), New Rule III (44.3.1004), and New Rule IV (44.3.1005) as proposed.

/s/ AUSTIN JAMES  
Austin James  
Rule Reviewer

/s/ CHRISTI JACOBSEN  
Christi Jacobsen  
Secretary of State

Dated this 14th day of June, 2022.

## **NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE**

### **Interim Committees and the Environmental Quality Council**

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

#### **Economic Affairs Interim Committee:**

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

#### **Education and Local Government Interim Committee:**

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

#### **Children, Families, Health, and Human Services Interim Committee:**

- Department of Public Health and Human Services.

#### **Law and Justice Interim Committee:**

- Department of Corrections; and
- Department of Justice.

#### **Energy and Telecommunications Interim Committee:**

- Department of Public Service Regulation.

**Revenue and Transportation Interim Committee:**

- Department of Revenue; and
- Department of Transportation.

**State Administration and Veterans' Affairs Interim Committee:**

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

**Environmental Quality Council:**

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

**Water Policy Interim Committee (where the primary concern is the quality or quantity of water):**

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

## HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:      **Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

**Montana Administrative Register (MAR or Register)** is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

### Use of the Administrative Rules of Montana (ARM):

- |                  |   |
|------------------|---|
| Known<br>Subject | 1.    Consult ARM Topical Index.<br>Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued. |
| Statute          | 2.    Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.                |

## RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2022. This table includes notices in which those rules adopted during the period January 14, 2022, through June 10, 2022, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2022, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2022 Montana Administrative Register.

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## EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in May 2022 appear. Potential vacancies from July 1, 2022 through July 31, 2022, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of June 1, 2022.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

**EXECUTIVE BRANCH APPOINTEES FOR MAY 2022**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>9-1-1 Advisory Council</b>			
Mr. Jeremy Virts Great Falls	Governor	Clinton Loss	5/3/2022 8/31/2023
Qualifications (if required): Montana Emergency Medical Services Assn Rep			
<b>Board of Chiropractors</b>			
Mr. Dustin Rising Bozeman	Governor	Greg Pisk	5/3/2022 1/1/2025
Qualifications (if required): Licensed Chiropractor			
<b>Board of Horse Racing</b>			
Ms. Janis Calton Bigfork	Governor	Gary Koepplin	5/30/2022 1/1/2025
Qualifications (if required):			
Mr. Corey Jones Miles City	Governor	Dale Mahlum	5/30/2022 1/1/2025
Qualifications (if required): Horse racing Industry Rep			
<b>Board of Private Security</b>			
Ms. Heidi Visocan Plentywood	Governor	Wynn Meehan	5/3/2022 8/1/2024
Qualifications (if required): Sheriff's Office Rep			



**EXECUTIVE BRANCH APPOINTEES FOR MAY 2022**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Private Security Cont.</b>			
Mr. Gabe Zeiler	Governor	Hal Richardson	5/3/2022
Sidney			8/1/2024
Qualifications (if required): City Police Dept Rep			
<b>Board of Radiologic Technologists</b>			
Ms. Jessica Bradley	Governor	New	5/3/2022
Circle			7/1/2025
Qualifications (if required): Limited Permit Holder			
Ms. Tamara Harp	Governor	Daniel Funsch	5/3/2022
Anaconda			7/1/2025
Qualifications (if required): Licensed Rad Tech			
<b>Burial Preservation Board</b>			
Mr. Justin Grayhawk	Governor	Tom Escarcega, Sr	5/3/2022
Poplar			8/31/2023
Qualifications (if required): Ft Peck Assiniboine and Sioux Tribe rep			
<b>Montana High School Association</b>			
Mr. Jimmy Patelis	Governor	Hannah Dean	5/30/2022
Billings			5/1/2026
Qualifications (if required): Governor's Office Rep			

**EXECUTIVE BRANCH APPOINTEES FOR MAY 2022**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Parks and Recreation Board</b>			
Ms. Liz Whiting	Governor	Mary Sheehy Moe	5/3/2022
Great Falls			1/1/2023
Qualifications (if required): District 3 Rep			
<b>Statewide Public Safety Communications System Advisory Council</b>			
Mr. Jeremy Virts	Governor	Clinton Loss	5/3/2022
Great Falls			6/30/2023
Qualifications (if required): Montana Emergency Medical Services Assn Rep			

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Advisory Council on Aging</b>		
Mrs. Marianne B. Roose, Eureka Qualifications (if required): Public Representative	Governor	7/1/2022
Mr. Alex E. Ward, Billings Qualifications (if required): Public Representative	Governor	7/1/2022
Ms. Roberta Bigback, Lame Deer Qualifications (if required): Public Representative	Governor	7/1/2022
<b>Board of Funeral Service</b>		
Mr. John Tarr, Helena Qualifications (if required): Representative of the public	Governor	7/1/2022
Mr. James Coryell Axelson, Butte Qualifications (if required): Representative of a Cemetery Company	Governor	7/1/2022
Mr. Jayson Daniel Watkins, Kalispell Qualifications (if required): Licensed Mortician	Governor	7/1/2022
<b>Board of Nursing</b>		
Ms. Darlene Schulz, Deer Lodge Qualifications (if required): Licensed Practical Nurse	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Nursing Cont.</b>		
Mr. Tom Glover, Great Falls Qualifications (if required): Public member	Governor	7/1/2022
Ms. Deborah L. Johnson, Helena Qualifications (if required): Public member	Governor	7/1/2022
Ms. Leesha Ford, Great Falls Qualifications (if required): Registered Nurse	Governor	7/1/2022
<b>Board of Pharmacy</b>		
Ms. Marian Jensen, Butte Qualifications (if required): Public Member	Governor	7/1/2022
<b>Board of Physical Therapy Examiners</b>		
Ms. Jennifer Lynn Lorengo Reisenauer, Deer Lodge Qualifications (if required): Licensed Physical Therapist	Governor	7/1/2022
<b>Board of Professional Engineers and Professional Land Surveyors</b>		
Mr. Ronald Drake, Helena Qualifications (if required): Professional Chemical Engineer	Governor	7/1/2022
Mr. Troy Soren Jensen, Sidney Qualifications (if required): Professional and practicing land surveyor for at least 12 years	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Public Accountants</b>		
Ms. Kathleen VanDyke, Bozeman Qualifications (if required): Public Representative	Governor	7/1/2022
Mr. John W. Jacobsen, Billings Qualifications (if required): Certified Public Accountant	Governor	7/1/2022
Mr. Michael Huotte, Anaconda Qualifications (if required): Certified Public Accountant	Governor	7/1/2022
<b>Board of Radiologic Technologists</b>		
Mr. Mike Nielsen, Billings Qualifications (if required): Radiologic Assistant	Governor	7/1/2022
<b>Board of Sanitarians</b>		
Mrs. Stephanie Jean Ler, Savage Qualifications (if required): Registered sanitarian	Governor	7/1/2022
<b>Board of Trustees for the Montana Historical Society</b>		
BG (Ret.) Harold Joseph Stearns, Missoula Qualifications (if required): Historian	Governor	7/1/2022
Mr. Stephen W. Lozar, Polson Qualifications (if required): Public representative	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Trustees for the Montana Historical Society Cont.</b> Mr. Kent Kleinkopf, Missoula Qualifications (if required): Public Representative	Governor	7/1/2022
<b>Board of Water Well Contractors</b> Mr. Patrick Joseph Byrne, Great Falls Qualifications (if required): Licensed Montana water well contractor	Governor	7/1/2022
<b>Commission on Community Service</b> Ms. Amy Unsworth, Helena Qualifications (if required): Agency Representative	Governor	7/1/2022
Ms. Karin Billings, Helena Qualifications (if required): Public Representative	Governor	7/1/2022
Mr. James Larson, Billings Qualifications (if required): Organized Labor	Governor	7/1/2022
Ms. Heather Margolis, Bozeman Qualifications (if required): National Service Program	Governor	7/1/2022
Mr. Kevin Myhre, Lewistown Qualifications (if required): Business Representative	Governor	7/1/2022
Ms. Andrea L. Surratt, Bozeman Qualifications (if required): Local Government	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Commission on Community Service Cont.</b>		
Ms. Rebecca Harbage, Helena Qualifications (if required): Agency Representative	Governor	7/1/2022
Commissioner Juanita Vero, Missoula Qualifications (if required): Local Government	Governor	7/1/2022
Ms. Hadley Jackson, Missoula Qualifications (if required): State agency, Higher Education	Governor	7/1/2022
<b>Committee on Telecommunications Access Services for Persons With Disabilities</b>		
Mr. John Pavao, Helena Qualifications (if required): Member from the Department of Administration	Governor	7/1/2022
Mr. Thomas Henry Thompson, Missoula Qualifications (if required): Person with a disability	Governor	7/1/2022
Ms. Chanda Hermanson-Dudley, Helena Qualifications (if required): Representative of the Dept. of Public Health and Human Services	Governor	7/1/2022
Mr. Ron Bibler, Big Sky Qualifications (if required): Disabilities Community	Governor	7/1/2022
Mr. Lee Hazelbaker, Belgrade Qualifications (if required): Non-disabled, engaged in a business	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Community Service Commission</b>		
Mr. Donnie Wetzel, Jr., Helena	Governor	7/1/2022
Qualifications (if required): OPI Rep		
<b>Future Fisheries Review Panel</b>		
Ms. Nancy Sue Winslow, Missoula	Governor	7/1/2022
Qualifications (if required): Expertise in mining reclamation techniques		
Mr. William Mytton, Absarokee	Governor	7/1/2022
Qualifications (if required): Expertise in commercial agriculture		
Mr. Robert Schroeder, Florence	Governor	7/1/2022
Qualifications (if required): Expertise in irrigated agriculture		
<b>Governor's Advisory Council on Aging</b>		
Ms. Gayle M. Carlson, Missoula	Governor	7/1/2022
Qualifications (if required): Public Representative		
<b>Interagency Coordinating Council for State Prevention Programs</b>		
Ms. Barbara A. Bessette, Great Falls	Governor	7/1/2022
Qualifications (if required): Experiences related to the private nonprofit provision of prevention programs		
Ms. Shantelle Gaynor, Missoula	Governor	7/1/2022
Qualifications (if required): Experiences related to the private or nonprofit provision of prevention programs		



**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Agriculture Development Council</b>		
Ms. Amy Nielsen Smith, Kalispell Qualifications (if required): Member who is or has been actively engaged in agriculture	Governor	7/1/2022
Mr. John Russel Wicks, Ledger Qualifications (if required): Member who is or has been actively engaged in agriculture	Governor	7/1/2022
<b>Petroleum Tank Release Compensation Board</b>		
Mr. Keith Schnider, Great Falls Qualifications (if required): Representative of the insurance industry	Governor	7/1/2022
Mr. Mark Allen Johnson, Bozeman Qualifications (if required): Representative of the petroleum industry	Governor	7/1/2022
Mr. Gregory Ben Taylor, Shelby Qualifications (if required): Independent Petroleum Marketers	Governor	7/1/2022
<b>Resource Conservation Advisory Council</b>		
Mr. Bob Schroeder, Florence Qualifications (if required): Western Montana	Governor	7/1/2022
Ms. Judi Knapp, Hysham Qualifications (if required): South Central Montana	Governor	7/1/2022
Ms. Gayla Wortman, Cascade Qualifications (if required): North Central Montana	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Resource Conservation Advisory Council Cont.</b>		
Mr. Doug Bonsell, Ekalaka Qualifications (if required): Eastern Montana	Governor	7/1/2022
Mr. Bob Breipohl, Saco Qualifications (if required): Eastern Montana	Governor	7/1/2022
Mr. O. Ramsey Offerdal, Conrad Qualifications (if required): North Central Montana	Governor	7/1/2022
Ms. Kathleen Johnson, Fortine Qualifications (if required): None Stated	Governor	7/1/2022
<b>State Banking Board</b>		
Ms. Jennifer L. McGinnis, Polson Qualifications (if required): Member of the public	Governor	7/1/2022
Mr. William L. Davies, Billings Qualifications (if required): Active officer of a national bank doing business in Montana	Governor	7/1/2022
<b>State Electrical Board</b>		
Mr. Harry Freebourn, Butte Qualifications (if required): Member representing the public	Governor	7/1/2022
Mr. James P. Reardon, Helena Qualifications (if required): Member representing the public	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Workforce Innovation Board</b>		
Director Sheila Hogan, Helena Qualifications (if required): DPHHS Director or designee	Governor	7/1/2022
Commissioner Michael McGinley, Dillon Qualifications (if required): Local Government Elected Official	Governor	7/1/2022
Mr. Grover Charles Wallace, Big Timber Qualifications (if required): Business Representative	Governor	7/1/2022
Mr. Alan Ekblad, Helena Qualifications (if required): Workforce Representative	Governor	7/1/2022
Director Tara Rice, Helena Qualifications (if required):	Governor	7/1/2022
Ms. Deborah Poteet, Missoula Qualifications (if required): Business representative	Governor	7/1/2022
Mrs. Jeaneen L. Campbell, Helena Qualifications (if required): Business Representative	Governor	7/1/2022
Commissioner Brenda Nordlund, Helena Qualifications (if required): Commissioner of Labor and Industry, designee	Governor	7/1/2022
Mr. Ross Lane, Bozeman Qualifications (if required): Business Representative	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Workforce Innovation Board Cont.</b>		
Mr. William Collins, Great Falls Qualifications (if required): Workforce representative	Governor	7/1/2022
Mr. Steven Nicholls, Butte Qualifications (if required): Business Representative	Governor	7/1/2022
<b>State-Tribal Economic Development Advisory Council</b>		
Ms. Jestin Dupree, Poplar Qualifications (if required): Fort Peck Tribes Alternative Representative	Governor	7/1/2022
Councilwoman Kacie Walette, Poplar Qualifications (if required): Fort Peck Tribes Representative	Governor	7/1/2022
<b>Teachers' Retirement Board</b>		
Ms. Kari Peiffer, Kalispell Qualifications (if required): Active member retirement system, employed as a public school classroom teacher	Governor	7/1/2022
<b>Tourism Advisory Council</b>		
Ms. Lindzy Brunson, Kalispell Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2022
Ms. Rhonda Price Fitzgerald, Whitefish Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Tourism Advisory Council Cont.</b>		
Ms. Rachel Gregg, Missoula Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2022
Ms. Katherine Marie Grice, Big Sky Qualifications (if required): Yellowstone Country Region Representative	Governor	7/1/2022
Mrs. Alicia Jayne Harvey, Bozeman Qualifications (if required): Yellowstone Country Representative	Governor	7/1/2022
Mr. Bill Mitchell McGladdery, Butte Qualifications (if required): Southwest Montana Region Representative	Governor	7/1/2022
Dr. Patricia A. McGlynn, Kalispell Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2022
Ms. Sabre Addington Moore, Ekalaka Qualifications (if required): Southeast Montana Region Representative	Governor	7/1/2022
<b>Underground Facility Protection Advisory Council</b>		
Mr. John Bemis, Helena Qualifications (if required): Member representing a telecommunications provider	Governor	7/1/2022
Mr. Douglas Craig Hansen, Billings Qualifications (if required): Member representing a public utility	Governor	7/1/2022

**EXECUTIVE BRANCH VACANCIES – JULY 1, 2022 THROUGH JULY 31, 2022**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Underground Facility Protection Advisory Council Cont.</b>		
Mrs. Mandi Nay, Circle	Governor	7/1/2022
Qualifications (if required): Member representing a regional water system		
Mr. Nicholas James Pericich, Belgrade	Governor	7/1/2022
Qualifications (if required): Member representing a municipal sewer or water system		
<b>Western Interstate Commission on Higher Education</b>		
Representative Laurie Bishop, Livingston	Governor	7/1/2022
Qualifications (if required): State Legislator		

MONTANA ADMINISTRATIVE  
REGISTER

2022 ISSUE NO. 12  
JUNE 24, 2022  
PAGES 944-1119

**CHRISTI JACOBSEN**  
SECRETARY OF STATE

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